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THIRD ANNUAL REPORT

OF THE

BOARD OF RAILROAD COMMISSIONERS

OF THE

STATE OF NEW YORK,

For the Fiscal Year Ending September 30, 1885.

TRANSMITTED TO THE LEGISLATURE JANUARY 11, 1886.

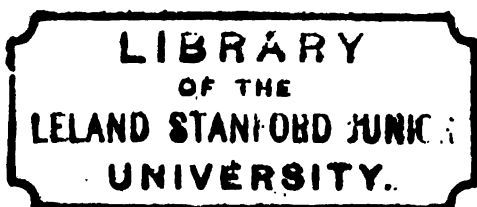
COMMISSIONERS:

JOHN D. KERNAN, WILLIAM E. ROGERS,
JOHN O'DONNELL.

Volume I.

ALBANY:

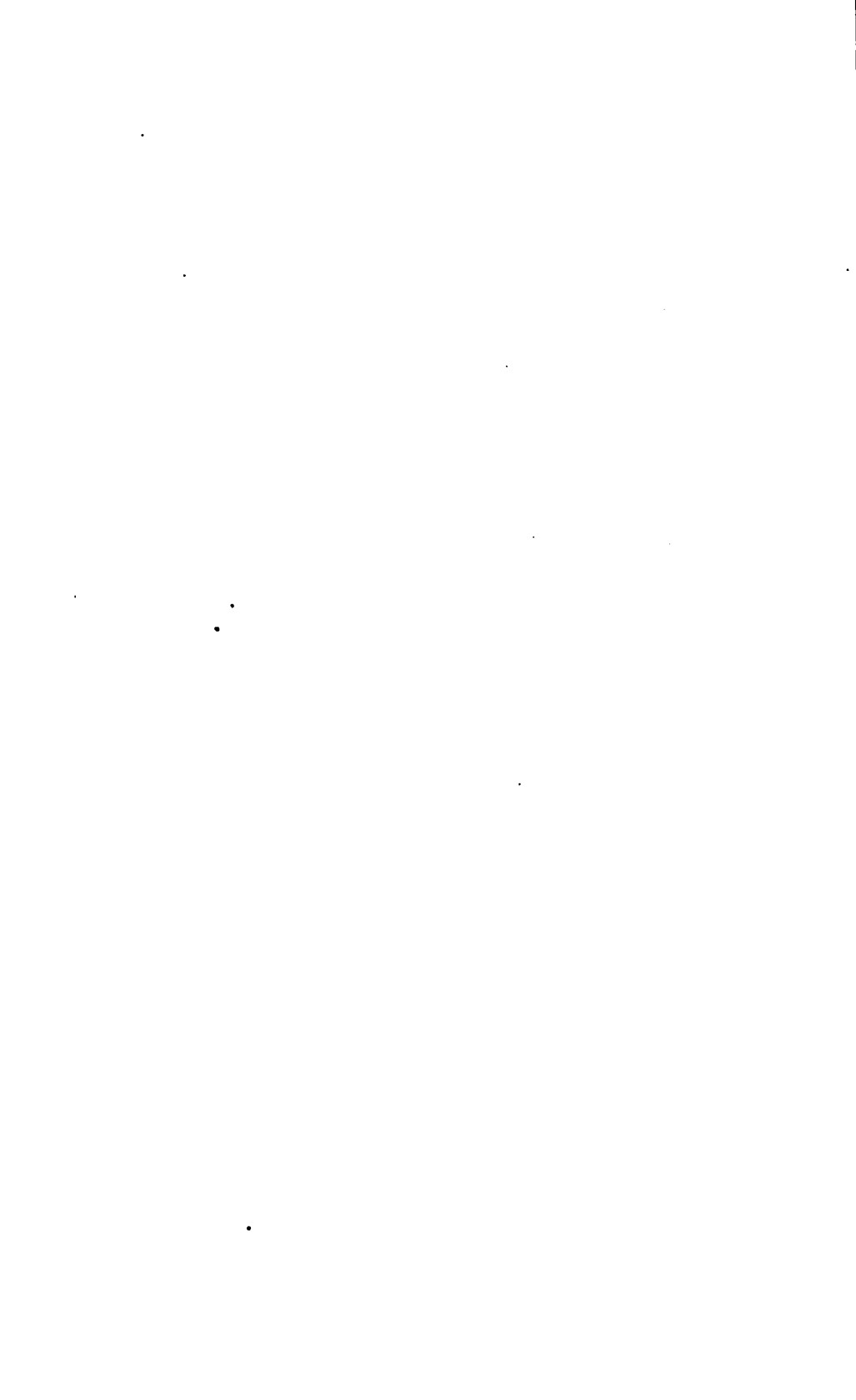
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STATE OF NEW YORK.

No. 26.

IN ASSEMBLY,

JANUARY 13, 1886.

THIRD ANNUAL REPORT OF THE BOARD OF RAILROAD COMMISSIONERS ON THE RAILROADS OF THE STATE.

OFFICE OF THE
BOARD OF RAILROAD COMMISSIONERS, }
ALBANY, *January 11, 1886.*

To the Speaker of the Assembly:

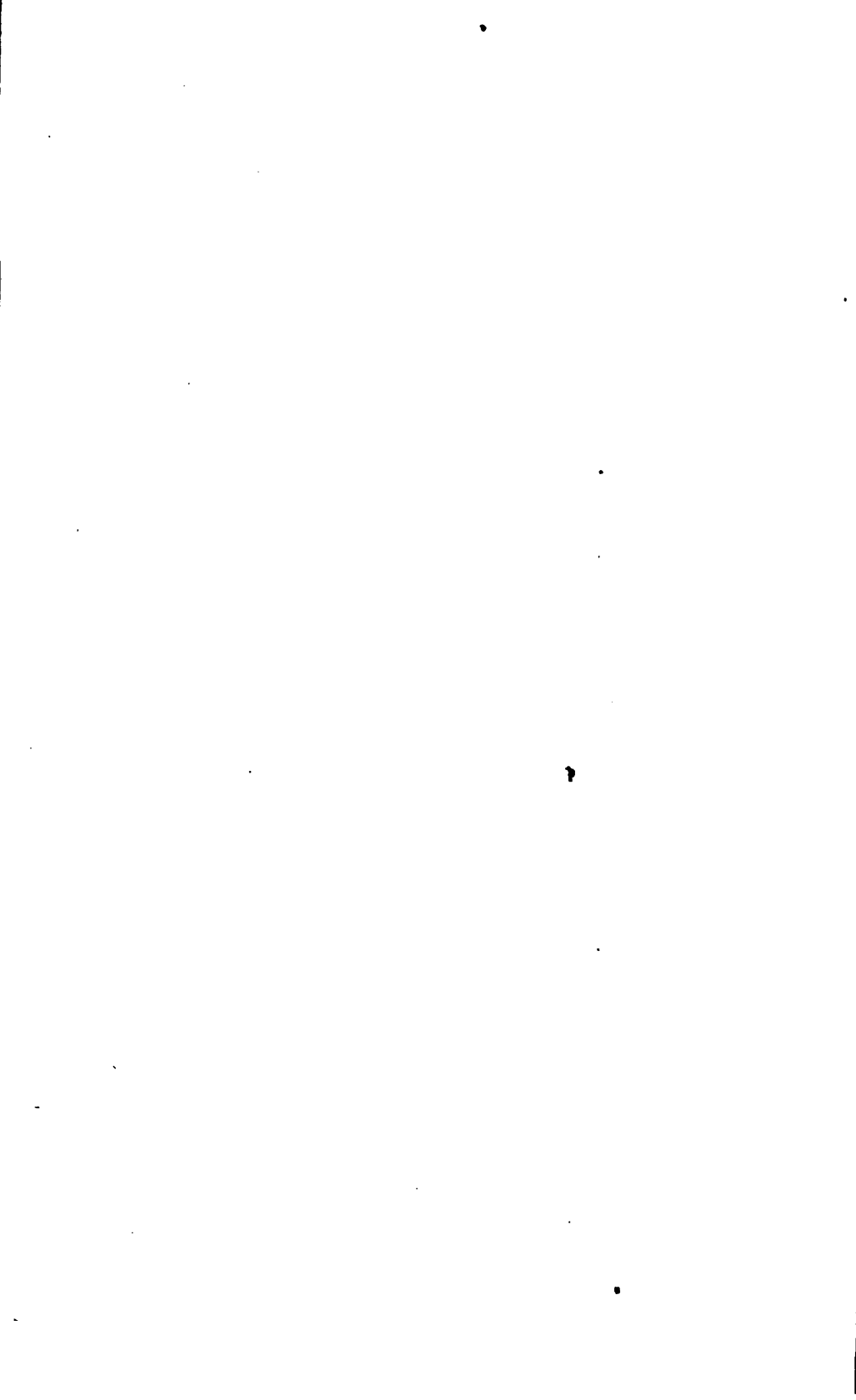
SIR — The Board of Railroad Commissioners, agreeably to the provisions of chapter 353, Laws of 1882, transmits herewith to the Legislature its Third Annual Report on the Railroads of the State, for the year ending September 30, 1885.

WILLIAM C. HUDSON,

Secretary.

[Assem. Doc. No. 26.]

1



REPORT.

OFFICE OF THE BOARD OF RAILROAD COMMISSIONERS, }
January 11, 1886.

To the Honorable the Legislature of the State of New York:

Chapter 353, Laws of 1882, requires the Board of Railroad Commissioners to report to the Legislature on or before the second Monday in January. Agreeably to the requirements of said law, the Board submits its Third Annual Report.

GENERAL SITUATION.

Another fiscal year of unprofitable business for the great transportation lines of the State has been recorded.

Many roads reduced their dividends as compared with previous years; others barely earned their fixed charges, and seven* succumbed entirely, passed into the hands of a receiver, or are going through foreclosure.

Excessive competition between the great trunk lines, bordering upon war, prevailed throughout the year. The average rate on grain from Chicago did not probably exceed fifteen cents per one hundred pounds; at times it was as low as eight. Correspondingly low charges obtained for other commodities.

The agreement to maintain rates, known as the trunk-line "pool," from constant violation by one road or the other, practically fell to pieces. The various steps resulting in this disruption need not be narrated here. It is sufficient to say that the immense losses incident to such a condition of affairs, rendering railroad property very generally unproductive, besides introducing all sorts of fluctuations and unjust discrimination as between shippers, have led to the formation of another pool or agreement.

* Lackawanna and Pittsburg, Springville and Sardinia, Tonawanda Valley and Cuba, Rochester and Pittsburg, Brooklyn, Flatbush and Coney Island, New York, Chicago and St. Louis, and Buffalo, New York and Philadelphia.

It was submitted to the trunk lines in October, after long consultation and discussion between the authorities of the respective roads, and signed on the 6th of November by the following lines : The Grand Trunk Railway Company of Canada, the New York Central and Hudson River Railroad Company, New York, West Shore and Buffalo Railway Company, Delaware, Lackawanna and Western Railroad Company, the New York, Lake Erie and Western Railroad Company. The Baltimore and Ohio Railroad Company subsequently signed the agreement with certain conditions.

The text of the compact is quite long. It is published in full, beginning upon page 457 of the appendix.

The preamble recites that "past experience has fully established the fact that the joint action of competing railroad companies in establishing and adhering to uniform rates of transportation for like services to the public is necessary in order to avoid the evils of unjust discrimination and fluctuating rates, so injurious to commercial as well as to railroad interests. Therefore, the parties above named enter into the following contract for the purpose of jointly establishing tariffs over their respective roads on competitive traffic, both passenger and freight, * * * and of publishing said tariffs and strictly maintaining the same."

The "trunk lines" agree to enter jointly into arrangements with their *connecting* roads (both immediate and indirect) for the establishment of through tariffs to and from points beyond the termini of the trunk-line roads. "It is an essential part of this contract that the trunk lines will not continue to be, nor hereafter become, parties to any traffic arrangement with any of the aforesaid connecting roads which decline or fail to co-operate with them to this end."

A connecting road can thus be punished for any violation of the agreement by being cut off from all through business, so far as that can be accomplished by the other roads to the contract declining to act as its *forwarding agent*.

Articles 10, 11, 12 and 13 provide for the division of traffic according to "allotted percentages," and "only such compensation, if any, shall be allowed for carrying excess of freight or passengers as will promote this result." "Settlements of balances which may accrue under said contracts shall be made monthly," and a sufficient sum is to be deposited by each road with a trustee, in *advance*, against which drafts for balances can be drawn.

Article 14 provides for the affiliated roads (*i. e.*, the western con-

nections of the trunk lines with whom traffic arrangements are established) agreeing to division of traffic between themselves.

In order to carry out the provisions of the contract, an organization and general rules are adopted. These will be found in full on page 460 of the appendix, and are, therefore, not given here.

The agreement is long and elaborate. Very important details, however, are still to be worked out — for instance as to the proportion or allotment of freight to each road.

The chief difference between it and the previous trunk-line agreement, other than in the method of carrying out details, is, that this one provides for settling any excess that a road may carry over its allotted percentage by a money payment, whereas the previous pool provided that the excess of freight should be turned over bodily or "*diverted*" to the roads who were behind their allotted percentage.

The serious abuses growing out of this diversion of freight led to the complaints elsewhere alluded to and described.

How long this compact will last no one can say. Judging from the invariable disruption of those preceding it and from the fact that there is neither an inherent or extraneous power to compel obedience to its provisions (its maintenance depending entirely upon the good faith of the parties thereto), a short life might be confidently predicted.

On the other hand, the results of the last unregulated competition have been so utterly disastrous that the railroad managers, representing these vast properties, shrink more than ever from bringing it upon themselves again. The probabilities of the maintenance of the pool, therefore, are greater than heretofore, provided always that its great powers are exercised toward the public with wisdom, discretion and justice.

The Board does not deem it necessary here to enter into a discussion of the legal status of pools, or of the circumstances and business exigencies which have given rise to them.

For an exposition of this subject you are referred to page 77 of the appendix of the last annual report.

Perhaps the most important and significant event, so far as this State is concerned, and indeed very far reaching in its results, has been the absorption of the New York, West Shore and Buffalo Railway by the New York Central and Hudson River Railroad Company.

As is well known, in July of last year, an arrangement was concluded by which the New York Central offered to exchange bonds

guaranteed by itself for those of the West Shore at the rate of fifty cents on the dollar; an understanding being reached also, as currently reported, that the New York Central interest would abandon the construction of a railroad through Pennsylvania to compete with the Pennsylvania Railroad for through business. The offer was accepted by a large majority of the bondholders of the West Shore road, and this vast property therefore passed under the control of the New York Central. The mortgage was foreclosed and the property bought in by a committee consisting of Messrs. Depew, Morgan and Green, for \$22,000,000, on November 24th.

This committee transferred the property to a new company organized under the General Railroad act, entitled, "The West Shore Railroad Company," whose capital stock is ten millions of dollars and bonded debt *provided for* fifty millions of dollars at four per cent interest. The new company is leased to the New York Central and Hudson River Company for four hundred and seventy-five years, and the payment of the principal and interest of the \$50,000,000 of bonds, or of so many of them as may be issued, is guaranteed by that company. Twenty-five millions are to be exchanged for the original fifty millions of New York, West Shore and Buffalo Railway bonds. The remainder is to be issued as circumstances may require. The ten millions of stock is to be issued to the New York Central and Hudson River Railroad Company.

This transaction has afforded the text for a great many reflections, condemning or approving, depending upon the point of view from which it is regarded.

It was approved by the stockholders of the New York Central Railroad as a necessary protection for their property, although the board of directors were under no necessity of asking their consent, it being claimed that the law gives that body the power to issue bonds, lease other roads or guarantee the bonds of other roads, without any expression of approval or the reverse from the stockholders; powers, the curtailment of which this Board has recommended twice to the Legislature without avail.

Whatever else may be said about the transaction it certainly emphasizes and fulfills the predictions of the Board in its remarks upon the building of new and unnecessary railroads upon parallel or *identical* routes of old ones.

On page 8 of its Second Annual Report this Board expressed itself as follows:

"A railroad cannot be built without the State delegating to its promoters the highest power it possesses over property—the right of eminent domain; the

right to take private property for public uses. The State itself never exercises this sovereign power except in cases of *public necessity*. Why should it thus delegate it to any thirteen men, to be exercised for mere private gain, frequently at the expense of vested rights and grave public interests."

The report then goes on to show that the duplication of lines on *identical routes* brings about bad service, deteriorated physical condition of the property with all its attendant dangers to life and limb, and finally a combination or pool resulting in higher rates than existed before.

These results grow out of the fact that while there may be a very profitable business for one road there is rarely, if ever, enough for two to even earn *operating expenses* at reasonable rates of freight and fare.

This subject is hereinafter further discussed under the head of "proposed amendments to railroad laws."

SUMMARY OF BUSINESS OF THE YEAR.

An enormous business was done last year, as heretofore, notwithstanding the unprofitable rates.

The totals for all roads and the details for each, are given with great particularity in the second volume of this report. A few of the *grand totals* and most important final results are given here as follows:

	1885.	1884.
Gross earnings from operation of road	\$111,632,961 47	\$120,227,571 73
Operating expenses	77,175,826 01	83,240,558 36
Net earnings from operation of road	34,457,135 46	36,987,013 36
Income from other sources than operation of road	6,244,808 50	6,237,025 47
*Interest paid and accrued	24,644,451 32	26,517,711 63
Taxes	4,874,394 55	4,640,323 23
*Dividends declared	10,465,866 84	17,946,259 33
Deficit	8,502,387 71	10,471,322 60
Stock and debt	1,291,021,622 44	1,271,380,638 32
Cost of road and equipment	1,174,519,045 65	1,163,906,127 82
Percentage of gross income to cost of road and equipment	03.46	03.70
Percentage of net income to capital stock	01.09	01.18
Percentage of dividends declared to capital stock	01.60	02.76
Miles of road built in New York State	7,811 40	7,817.04
Tons of freight carried one mile	9,902,663,295	9,326,068,865
Increase in 1885 of 06.18 per cent.		
Average freight earnings per ton per mile (cents)	0.73	0.83
do do expenses	0.52	0.60
do do profit	0.21	0.23
Passengers carried one mile (exclusive of elevated roads)	1,834,580,425	1,737,108,067
Increase in 1885 of 05.61 per cent.		
Average passenger earnings per passenger per mile (cts)	2.13	2.42
Average passenger expenses per passenger per mile (cts)	1.39	1.56
Average passenger profit per passenger per mile (cents)	0.74	0.86

* Includes respectively interest and dividends paid by lessors from rentals received from lessees as follows:

	1885.	1884.
Interest	\$5,081,909 98	\$3,827,045 71
Dividends	3,427,453 34	3,308,472 60

SUPREMACY OF THE CITY OF NEW YORK.

The following table, compiled from data furnished by the Bureau of Statistics of the United States Treasury Department, shows the value of the exports of domestic merchandise and of imports from and at the ports of New York, Boston, Philadelphia and Baltimore (exclusive of coin and bullion) and the percentage of each to the total from such ports for the last ten years.

EXPORTS.

YEAR ENDING JUNE 30.	NEW YORK.		BOSTON.		PHILADELPHIA.		BALTIMORE.		Total.
	Amount.	Per cent	Amount.	Per cent	Amount.	Per cent	Amount.	Per cent	
1876.....	\$253,115,194	70.1	\$36,032,822	8.6	\$40,243,150	11.2	\$21,206,807	8.7	\$380,598,848
1877.....	274,120,314	68.2	42,747,795	10.	45,453,046	11.3	39,141,274	9.8	401,422,929
1878.....	327,220,478	70.5	46,542,044	10.6	44,508,069	9.7	45,422,627	9.7	465,709,128
1879.....	327,796,319	68.2	48,100,019	10.1	47,013,751	9.7	51,474,408	12.	490,388,084
1880.....	385,506,032	67.8	58,023,837	10.	49,612,185	8.8	70,220,870	13.2	569,363,254
1881.....	303,658,308	67.6	72,100,186	12.3	44,147,381	7.6	72,444,413	12.5	532,350,110
1882.....	332,102,130	70.5	61,614,526	12.1	37,857,631	8.1	39,412,642	8.3	471,086,365
1883.....	347,308,334	69.3	61,273,101	12.2	38,132,145	7.6	64,956,060	10.9	501,669,630
1884.....	320,016,246	69.2	62,528,000	13.5	39,467,799	8.	45,094,217	9.3	462,076,262
1885.....	334,718,327	69.8	61,378,633	12.8	38,642,516	8.	45,041,694	9.4	479,781,010
Total..	\$3,295,569,858	69.	550,340,790	11.5	422,207,648	8.9	504,454,329	10.6	4,772,573,225

IMPORTS.

YEAR ENDING JUNE 30.	NEW YORK.		BOSTON.		PHILADELPHIA.		BALTIMORE.		Total.
	Amount.	Per cent	Amount.	Per cent	Amount.	Per cent	Amount.	Per cent	
1876.....	\$303,466,910	78.7	\$37,222,800	9.7	\$22,471,367	5.8	\$22,305,346	5.8	\$385,466,513
1877.....	298,261,378	78.	42,218,338	11.	19,673,374	5.1	32,322,544	5.9	382,476,134
1878.....	292,797,559	79.7	40,383,023	10.8	19,333,496	5.2	16,890,855	4.3	369,208,883
1879.....	302,349,053	79.3	40,448,791	10.7	24,377,271	6.4	14,017,604	3.6	381,192,719
1880.....	439,337,153	78.7	63,503,136	11.7	35,944,500	6.2	19,945,380	3.4	534,330,778
1881.....	435,450,805	79.8	61,960,103	11.2	32,583,106	6.	16,189,816	3.	546,183,930
1882.....	493,080,891	80.6	69,594,057	11.4	34,136,579	5.6	14,938,258	2.4	611,729,785
1883.....	496,005,276	80.4	72,552,075	11.7	33,738,556	5.5	14,599,179	2.4	616,895,086
1884.....	465,119,630	80.7	65,865,551	11.5	33,637,216	5.8	11,423,665	1.9	576,068,062
1885.....	380,077,748	80.	53,445,929	11.2	29,919,019	6.3	11,849,606	2.5	475,292,292
Total..	3,926,526,503	80.	552,078,893	11.3	285,834,984	6.1	164,491,932	2.6	4,928,932,392

The percentages change very little and New York city still maintains her lead.

CANALS.

The Board, in its First Annual Report and also in its last annual report, called the attention of the Legislature to "a serious danger threatening to destroy all competition by water routes." The Board again calls the attention of the Legislature to the fact that some rail-

roads of the State have a form of contract that shippers over their roads are required to sign, in order to get the lowest freight rates. This practice the Board condemns as against the right of every citizen to the benefits of the canals he is taxed to maintain. Free competition by the canals with railroads should be jealously maintained. The Board prepared a bill to prevent this practice by railroads, but it failed to pass the Legislature of 1885.

During the past year, an important State convention was held at Utica in favor of preserving the canals of the State. This convention was largely attended by representative men, some of whom have given the subject of canal and railroad transportation earnest and intelligent thought. The convention was marked for its ability, and was presided over by ex-Governor Horatio Seymour. Among its important acts a resolution was passed endorsing the bill prepared by the Board for the Legislature of 1885, and an able committee was appointed to present the action of the convention to the coming Legislature. The Board hopes that the action of the convention will be considered favorably by the Legislature and this important measure to protect the commerce of the State become a law.

RELATION BETWEEN CANALS AND RAILROADS.

1876.		1875.	1876.	Gain in 1876.	Loss in 1876.
New York canals, tons.....		4,859,858	4,172,129	.....	687,729
New York Central railroad, tons..		6,001,954	6,108,680	801,726	.....
Erie railway, tons.....		6,239,946	6,972,818	.....	732,872
		17,101,758	16,948,627	801,726	954,867
1877.		1876.	1877.	Gain in 1877.	Loss in 1877.
New York canals, tons.....		4,172,129	4,855,963	783,834	.....
New York Central railroad, tons..		6,008,680	6,351,356	.....	452,676
Erie railway, tons.....		6,972,818	6,182,451	209,633	.....
		16,948,627	17,489,770	993,487	452,676
1878.		1877.	1878.	Gain in 1878.	Loss in 1878.
New York canals, tons.....		4,855,963	5,171,320	215,357	.....
New York Central railroad, tons..		6,351,356	7,895,413	1,844,067	.....
Erie railway, tons.....		6,182,451	6,150,568	.....	31,883
		17,489,770	19,017,301	1,559,414	31,883
1879.		1878.	1879.	Gain in 1879.	Loss in 1879.
New York canals, tons.....		5,171,320	5,362,379	191,059	.....
New York Central railroad, tons..		7,895,413	9,015,753	1,320,340	.....
Erie railway, tons.....		6,150,568	8,212,641	2,062,073	.....
		19,017,301	22,590,766	3,573,465	.....
1880.		1879.	1880.	Gain in 1880.	Loss in 1880.
New York canals, tons.....		5,362,379	6,457,656	1,095,276	.....
New York Central railroad, tons..		9,015,753	10,533,088	1,517,335	.....
Erie railway, tons.....		8,212,641	8,715,892	503,251	.....
		22,590,766	25,706,586	3,115,820	.....
1881.		1880.	1881.	Gain in 1881.	Loss in 1881.
New York canals, tons.....		6,457,656	5,179,192	.....	1,278,464
New York Central railroad, tons..		10,533,088	11,591,579	1,058,491	.....
Erie railway, tons.....		8,715,892	11,086,823	2,370,931	.....
		25,706,586	27,857,394	2,429,272	1,278,464
1882.		1881.	1882.	Gain in 1882.	Loss in 1882.
New York canals, tons.....		5,179,192	5,497,493	318,301	.....
New York Central railroad, tons..		11,591,579	11,380,393	.....	210,786
Erie railway, tons.....		11,086,823	11,895,238	808,415	.....
		27,857,394	28,693,054	1,006,646	210,786
1883.		1882.	1883.	Gain in 1883.	Loss in 1883.
New York canals, tons.....		5,497,423	5,664,056	166,633	.....
New York Central railroad, tons..		11,380,393	10,992,440	.....	437,953
Erie railway, tons.....		11,895,238	*13,610,623	1,715,385	.....
		28,693,053	30,167,119	1,912,028	437,953
1884.		1883.	1884.	Gain in 1884.	Loss in 1884.
New York canals, tons.....		5,664,056	5,009,498	.....	654,558
New York Central railroad, tons..		10,992,440	10,212,418	.....	780,022
New York, Lake Erie & W. railroad, tons		*13,610,623	*16,219,595	22,608,975	.....
		30,167,119	31,441,504	2,608,975	1,334,580
1885.		1884.	1885.	Gain in 1885.	Loss in 1885.
New York canals, tons.....		5,009,498	4,731,784	.....	277,714
New York Central railroad, tons..		10,212,418	10,788,499	520,081	.....
New York, Lake Erie & W. railroad, tons		*16,219,598	*14,959,970	.....	1,259,628
		31,422,504	30,429,263	520,081	1,537,333

* Of this amount 1,645,183 tons is the tonnage for five months of the New York, Pennsylvania & Ohio R. R. Co., leased by the Erie.

† Of this amount, 5,147,660 tons is the tonnage for twelve months of the New York, Pennsylvania & Ohio R. R. Co., leased by the Erie.

‡ Apparent gain of New York, Lake Erie and Western R. R. Co. Deducting the tonnage of the New York, Pennsylvania & Ohio during the seventeen months it has been leased to New York, Lake Erie & Western, and the loss of the latter for 1884 is 883,553 tons.

§ 4,706,481 tons of this amount is the tonnage of the New York, Pennsylvania & Ohio Railroad, leased by the Erie.

QUARTERLY AND ANNUAL REPORTS.

The adoption by the railroads of this State of the system of quarterly and annual reports, recommended by the Board, which involved a new system of railroad book-keeping, has been watched with solicitude as to the final results. The Board has been greatly aided in perfecting the system by the cordial co-operation of the railroads, and now believes that this uniform system of book-keeping is the best yet devised both for the public and the corporations.

There has been great improvement in the general accounting of the companies; reports showing financial condition as well as operation are now generally correctly made, whereas a year ago this was the exception and not the rule. It is all the more satisfactory in view of the adoption of this new system of book-keeping.

The form used for quarterly reports shows a comparison between each quarter of the current year and that of the previous year. These are published in volume two of this report and present a very interesting comparative table of the fluctuations in railroad operation during the various quarters, as well as the variations in the financial condition of the companies from time to time.

The new form for annual reports adopted by the Board is used for the current year for the first time. The business of 1884 has been re-tabulated to conform to the new system so as to show comparison with the current year. It has not been possible to redistribute all the figures of 1884 under the new headings so as to show the business of that year exactly under the various sub-divisions, but great care has been used, and the final results are believed to be accurate.

The changes of the new form are various. One for instance — the cost of carrying under the old form was based upon the percentage of the passenger or freight expenses to the revenue received from transportation of passengers or freight only. Under the new form, passenger earnings receive credit for mail, express and a just proportion of miscellaneous earnings. The passenger expenses, which include the expense of securing these extra earnings, are charged against the gross amount instead of against the receipts from passengers only. By this method, the profit from carrying passengers will be shown to be much greater than heretofore. The same is true of freight traffic in receiving credit for its proportion of miscellaneous earnings. Again, old material sold has heretofore been entered as a miscellaneous earning, and passenger or freight traffic did not benefit

by it. Under the new system the receipts from such sales are deducted from operating expenses, thereby reducing the cost of carrying. The justice of this is apparent, as the new material used in repairs is charged to operating expenses and therefore the revenue received from sale of the old should go to reduce the cost of the new.

The following table shows some of the results of the business of 1884 as computed from the reports made by the companies under the old form, compared with like results as computed under a redistribution of the same year's business, in accordance with the new system of accounts adopted by this Board.

	Business of 1884 as returned by the compa- nies and shown in report of 1884.	Business of 1884 as re-dis- tributed under the new system and shown in Vol. 2 of this report.
<i>Per passenger, mile :</i>		
Passenger earnings, (cents)	2.08	2.42
do expenses do	1.64	1.56
do profit do	0.44	0.86
<i>Per passenger train, mile :</i>		
Passenger earnings	• \$1.07	\$1 24
do expenses	84	80
do profit	23	44
<i>Per ton, mile :</i>		
Freight earnings, (cents)	0.82	0.83
do expenses	0.62	0.60
do profit	0.19	0.23
<i>Per freight train, mile :</i>		
Freight earnings	\$1 51	\$1 54
do expenses	1 15	1 10
do profit	36	44
<i>Per mile of road operated :</i>		
Passenger earnings	\$3,088 63	\$3,596 09
do expenses	2,436 56	2,318 55
do profit	653 07	1,277 54
Freight earnings	\$6,616 18	\$6,698 49
do expenses	5,024 45	4,805 91
do profit	1,591 73	1,892 58
Net earnings from operation and income from other sources than operation*	\$3,375 13	\$3,698 92
Percentage of passenger expenses to passenger earnings..	78.86	64.48
do freight do freight do ..	75.94	71.79
do total operating expenses to gross earnings from operation and income from other sources*	68.85	65.83

* These are combined, as the amounts distributed to each were, in the reports of 1884, included under head of earnings.

The foregoing figures show some large differences in the computations of profits accruing to railroad companies, and are accounted for as follows :

Under the new distribution of accounts, Mail, Express, and a proper proportion of Miscellaneous earnings are included under Passenger Earnings and made to bear their proportion of Passenger Expenses, all of which expenses have heretofore been charged against the revenue received from passengers exclusively.

The earnings for the year ending Sept. 30, 1884,

were, for mail.....	\$2,407,915 65
From Express matter.....	3,014,445 37
From Miscellaneous Sources	498,008 15

Thus we have.....	\$5,920,369 17
Added to revenue from passengers of.....	36,097,918 72

Making total earnings from passenger traffic.... \$42,018,287 89

against which to charge the same amount of expense, viz. : \$27,091,353.43, which under the old method was charged against the passenger revenue of \$36,097,918.72.

The cost of earning the \$5,920,369.17, from Mails, Express and Miscellaneous, referred to above, being included in the Passenger Expenses \$27,091,353.43, the revenue should be included as well in the Passenger Earnings, and thereby increase the earnings and profit as shown above.

Taxes are taken out of Operating Expenses and included among the Fixed Charges.

Certain taxes are assessed whether the road is operated or not. It is therefore held, that while Taxes are a proper deduction from Income, they are not a charge against the operation of the road.

Railroad managers are always ambitious to show economical management, and as taxes are levied by law, if there were no other reason for not charging them to operation, justice to the manager demands that he should not be charged with such a large item as part of the cost of his management, when it is not within his power, or that of the company, to control it.

The Board in its last annual report recommended that the quarterly reports, made by railroads to the Board, should be published in a newspaper where the principal office of the road was located, the same as quarterly reports are now published by banks. The reasons which apply to the publication of bank reports apply with equal and

in some respects greater force to the railroads. Railroad stocks are more generally dealt in by the public than bank stocks, and the interest already developed in requests to the Board for these reports shows clearly their public demand. If railroad reports had been published heretofore with the same regularity as bank reports, the omission of any road to send in its report to the Board would direct public attention to the fact, and it is believed that this would have a direct influence to make each road prompt in its quarterly and annual reports to the Board.

Six weeks from the expiration of each quarter is the time allowed for filing quarterly reports, yet some companies are still very dilatory, from reasons of their own, in filing such reports within the time prescribed by the Board.

The Board, therefore, renews its recommendation of last year that the quarterly reports be published, and also that a penalty, similar to that relating to annual reports, be imposed by law for non-filing of quarterly reports.

ACCIDENTS.

The very great diminution in the number of accidents during the year is a cause for hearty congratulation.

Probably for the first time since railroads have been run within the State of New York can it be said that a year has elapsed without a single passenger being killed *from causes beyond his own control*. Such was the fact for the fiscal year ending September 30, 1885.

The Board is convinced that its system of inspections, of investigating accidents and of requiring railroads to adopt certain well recognized means of safety, both as to their rules and as to their appliances, have had no little to do with this result.

Accidents are expensive, particularly if they cannot be hushed up. Railroad managers are more and more impressed with the fact that expenditure necessary to prevent them is money well spent.

The record for the year ending September 30, 1885, as compared with the two previous years, is as follows:

	1885.		1884.		1883.	
	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.
Passengers	13	99	25	187	40	194
Employees	137	771	147	799	175	722
Others	261	266	309	233	280	250
Totals ..	<u>411</u>	<u>1,136</u>	<u>481</u>	<u>1,219</u>	<u>495</u>	<u>1,166</u>

This shows a steady decrease in the number killed since 1883, being eighty-four less than in that year and seventy less than in

1884. The decrease in the number of passengers killed is very remarkable, there having been but thirteen killed in 1885 from all causes as against twenty-five in 1884 and forty in 1883. The decrease in the number of passengers injured is equally striking, there having been but ninety-nine injured in 1885 as against one hundred and eighty-seven in 1884 and one hundred and ninety-four in 1883.

The following gives the record of the accidents classified: First, as to their causes; second, as to whether beyond the control of the killed or injured, or in consequence of their misconduct or want of caution:

TABLE of accidents reported to the Board of Railroad Commissioners, classified as to causes, for the year ending September 30, 1885.

CAUSE OF ACCIDENT.	PASSENGERS.		EMPLOYEES.		OTHERS.		TOTAL.	
	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.
Fell from train, engines or cars.....	3	15	35	71	10	18	48	104
Getting on or off trains in motion.....	6	34	11	50	22	56	39	140
Striking low bridges, switches, tunnels, etc.	1	2	10	30	1	2	12	24
Passengers putting heads or arms out of windows, or missiles thrown in windows.....	...	3	...	...	...	...	...	3
Coupling or uncoupling cars.....	...	...	14	370	1	6	15	375
Walking or being on track.....	1	2	36	41	189	113	236	156
Crossing track at highways.....	...	...	2	...	6	17	8	17
Protected with gates or flagmen.....	...	...	...	...	24	36	24	36
Not protected with gates or flagmen.....	...	...	4	6	1	5	6	6
Catching foot in frog or between rails.....	...	...	2	5	...	1	2	6
Derailment by misplaced switch.....	...	...	...	8	...	...	...	3
do by broken rail.....	...	...	1	1	...	1	1	1
do by broken frog or switch.....	...	...	1	...	...	1	...	...
do by broken axle.....	...	...	...	3	...	...	...	3
do by broken wheel.....	...	...	4	1	...	...	5	5
do by defective track.....	...	9	12	1	1	1	1	23
do from unknown causes.....	...	...	...	...	...	...	...	...
Collisions, butting, by misplaced switch.....	...	...	...	...	...	...	...	...
do butting, by mistake or neglect of orders or signals.....	...	8	5	11	...	...	5	19
do butting with hand-car.....	...	...	1	2	1	1	...	2
do butting, by parting of trains.....	...	...	8	1	8	...	1	16
do butting, by accidental obstruction.....	...	...	2	3	10	...	3	12
do butting, by malicious interference.....	...	...	1	1	1	...	1	2
do butting, by causes unexplained.....	...	...	1	1	...	1	1	2
do rear, by misplaced switch.....	...	...	...	...	...	...	...	...
do rear, by mistake or neglect of orders or signals.....	...	1	1	1	...	...	1	2
do rear, by parting of trains.....	...	...	...	...	...	...	...	...
do at grade crossings of railroads.....	...	...	9	6	98	4	14	121
Failure of bridge, cattle-guard or trestle.....	...	...	...	...	...	...	...	...
Locomotive explosions.....	...	...	...	...	...	...	...	...
Other causes.....	...	...	...	...	...	...	...	...
Casualties not caused by trains, engines or cars.....	2	2	3	47	1	2	6	51
	13	99	137	771	261	266	411	1,136
From causes beyond their own control..	...	32	43	174	3	6	47	213
By their own misconduct or incaution.....	9	52	50	214	223	219	236	435
Reported as caused by intoxication.....	3	5	2	1	23	33	38	39
Indeterminable as to want of caution or otherwise.....	1	10	42	382	7	8	50	400
	13	99	137	771	261	266	411	1,136

From an inspection of it, precisely the same conclusions are to be drawn as were drawn last year from the inspection of the table of accidents of 1884. They are, therefore, repeated here, the dates and numbers being alone changed:

"The principal cause of death to passengers was getting on or off trains in motion (six out of a total of thirteen) and was the result of their own want of caution.

"The most serious cause of death to employees was walking or being on the track, a danger incident to their occupation and probably not preventable in any way; the second most serious cause was falling from trains, engines or cars. There is probably no more dangerous occupation than that of the brakeman on a freight train, who is obliged to run from car to car setting brakes, particularly in frosty weather, when he is liable to slip at any moment either through a curve in the track or sudden stop. It suggests the propriety of recommending a low railing of iron pipe, about eighteen inches high, to be put on every freight car, which the brakeman could seize if falling and probably save his life in many cases. It would be very inexpensive, and the Board fails to see any reason why it would not be entirely practicable.

"The cause leading to the third greatest number of deaths, and injuries greater in number than from all other cause, was coupling cars. To prevent this in future has been the object of legislative action and is hereinafter discussed.

"The most serious cause of death to 'others,' that is, to those who were neither passengers nor employees, was 'walking or being on the track.' This caused a loss of one hundred and eighty-nine lives and injuries to one hundred and fifteen persons as against the loss of two hundred and twenty-six lives and injury to ninety-one persons in 1884. The sufferers were, generally, almost invariably trespassers, frequently suicides. The law forbids walking or being on the tracks of railroads, and makes it a misdemeanor punishable with fine; but it seems practically impossible to enforce it in this country, particularly away from the cities. In the yards and depot grounds railroads make an effort to expel trespassers, but they meet with little encouragement from the civil authorities. This is particularly true with regard to children and beggars picking up coal and cinders.

"In view of the terrible loss of life incident to its violation, the law should certainly be enforced with more vigor.

"The next most serious cause of death to 'others,' was being run over at highway crossings. This resulted in the death of thirty and injury of fifty-three persons, as against the death of fifty-one and injury of seventy-six persons in 1883, and thirty-two killed and thirty-nine injured in 1884."

REFERENCES AND COMPLAINTS.

During the twelve months ending September 30th, the Board has considered and disposed of five references by the Legislature, and numerous complaints preferred by cities, towns, associations, individuals, etc.

The determination in these matters will be found in the appendix, pages 1-215, to which reference is made for a full exposition thereof.

The Board has also been able to act as an intermediary or peace-maker, through which several very important differences have been brought to an amicable and satisfactory termination without either the intervention of the Legislature or the courts.

This was conspicuously so in the negotiations between the authorities of the New York Central road on the one hand, and a committee of merchants on the other representing the dry-goods trade throughout the country. After a hearing in the case, a report was made by the Board sustaining the complaint. (See pages 77-132, in the appendix.) At the instance of the merchants, a bill had been introduced in the Legislature to prevent railroad corporations or fast freight lines from "diverting freight" contrary to the directions of the shipper; that is to say, from sending it by a different route to its destination from that usually taken by the freight line or corporation issuing the bill of lading, and also providing that, in case of loss or damage, the shipper might look for redress to the corporation or freight line issuing the bill of lading instead of to the road where the loss or damage might occur, as was required by a clause in the bill of lading generally given.

A great deal of antagonism had been aroused. A joint meeting of the committees on railroads of the Senate and Assembly were in session to hear the parties in interest.

Through the intervention of this Board, however, they were brought together with the result above stated, and the bill withdrawn. For a full exposition of the case, reference is made to pages 198 of the appendix.

Other cases might be cited.

The Board is satisfied that this function of composing troublesome differences can be beneficially exercised.

TRANSPORTATION AND FREIGHT RATES.

The Board has but little to add upon this important subject to what it has already reported to preceding Legislatures, and to its views expressed in the cases decided. You are respectfully referred to these and to page 10, and following of the appendix of Vol. 1 of the Second Annual Report for its views.

It is but proper, however, to note that the complaints with regard to the rates of freight for the last year have not been so numerous. This arises probably from three causes:

First. The rates throughout that large portion of the State traversed by the trunk lines have been so very low, in consequence of

excessive competition, as to have caused little or no ground for complaint ; and

Second. The very existence of a Board of Railroad Commissioners, rendering it possible for any aggrieved person to have his grievance promptly investigated and made public, has led to the settlement of the differences without appeal in many cases.

Third. The determination of one case acts as a precedent for a great many.

On the other hand, however, it is not fair to assume, because formal complaints are not constantly lodged with the Board, that grievances in this particular do not exist.

So powerful is the unfriendliness of a railroad corporation to a shipper, that the latter will frequently submit to many annoyances rather than complain for fear of the railroad's resentment.

One of the most exasperating customs of some railroads is to ignore the complaint, or, request from a shipper for small, and sometimes for very considerable, overcharges and reclamations. Letters are not answered, the grievance is not investigated, and finally the shipper is discouraged into letting the matter drop.

Another grievance arises from the raising of freight rates without notice by some railroads. A shipper, supposing he knows the rate of freight to a particular point, makes a transaction based upon the tariff rate. After shipping his goods, he finds it has been raised without notice to him, and very possibly to an extent to wipe out his profit and perhaps involve a loss.

Should this practice become the cause of complaint, a law prohibiting the *raising* of freight rates, except after public notice of, say ten days, would be just and expedient.

That a railroad should have the privilege of reducing rates without notice, is another question.

For instance, if the New York Central and Hudson River railroad or West Shore railway should be prohibited from reducing its rates except upon public notice, from Buffalo to New York, some other competing road, running from Buffalo to New York, but for a short *distance only within the State*, might reduce rates to a point to enable it to carry all the grain between the time of giving the notice and the time of its going into effect, thus shutting the State road out entirely during that time.

This objection, however, does not apply to a notice before raising rates.

For the purpose of maintaining profitable rates, however, the

railroads constituting the trunk line pool would probably be very willing that federal legislation, applicable to all, should be enacted, requiring notice before reducing.

The Board has again given much attention to the matter of inter-State commerce: That is to say to the question as to how far the jurisdiction of the State extends over those articles of commerce that are being transported, or are consigned for transportation, from one State to another.

It is not deemed expedient to discuss the subject here, as the conclusions reached are not unanimous, but you are referred to pages 77, 136, 164 and 198 of the appendix for the views of the Board and of its individual members.

This Board was invited to present its views to the Committee of the United States Senate on Inter-State Commerce at its first meeting on May 20th of last year, which it did.

The committee has taken a vast amount of testimony throughout the country and it is to be presumed that it will recommend to this Congress a measure providing for federal supervision of inter-State commerce.

PHYSICAL CONDITION OF THE RAILROADS.

It is with much pleasure that the Board reports that the physical condition of the railroads of the State has greatly improved within the last two years.

Your attention is particularly called to the inspection reports, to be found on pages 289-325 of the appendix. The improvement in the condition of the rails, ties, ballast, ditching, etc., and particularly bridges, is marked. The system adopted by the Board of making a minute inspection of the roads and bringing the results to the attention of the presidents and boards of direction, has, in most cases, had the beneficial effect hoped for.

The occasional disregard of these officers as to the deteriorated physical condition of their property, generally arises from ignorance rather than from indifference to public safety. The superintendent, on the other hand, shrinks from too great persistency in his demands for money to improve his road for fear of being regarded as extravagant and of losing his position. Chances are thus taken of the trains running safely until better times, which are entirely unjustifiable. The interposition of the State here is most beneficial.

The superintendent is protected and the board of direction is placed under a responsibility to put the property in at least *safe* condition, which few care to disregard.

A commendable pride is also stimulated upon the part of subordinate officers to have their road compare well with all others.

The Board believes that a large number of preventable accidents have thus been avoided. For a detailed account of the methods pursued, reference is made to page 18, etc., of Vol. I of Second Annual Report.

VENTILATION.

Upon this subject the Board can only repeat its expressions of last year, with additional emphasis, to-wit :

"The Board regrets to say that it is receiving very little encouragement from the railroads in its efforts to secure better ventilation of passenger cars. So far as health and comfort are concerned *nothing* is more important. Although the principles are as simple as possible they seem to be regarded by car builders and managers as a 'black art,' and are generally relegated to the negro porters."

On the 10th of December, 1883, the following circular was issued to the railroads of the State :

ALBANY, Dec. 10, 1883.

SIR :—The following preambles and resolutions were adopted by the Board on October 8th, 1883 :

Whereas, The proper ventilation of passenger cars, particularly during the winter months, is of the utmost importance as affecting the health and comfort of passengers ; and

Whereas, The system generally adopted in this State is very defective ; the only fresh air admitted being cold air from small windows at the top of the car ; and

Whereas, An improved system is now in vogue on some railroads in this State and elsewhere, which consists substantially in admitting fresh cold air through a screen, into a small furnace at the end of the car, where it is heated, and thence transmitted into the car through flues laid in the angle between the floor and sides, there being an opening or register at each seat ; the circulation thus induced causing a constant movement of the air upward and out of the ventilating windows at the top of the car, instead of allowing the cold air to settle down, as is usually the case ;

Resolved, That the attention of the railroads of this State be drawn to the said system, and that they be recommended to adopt the same in all passenger cars as soon as practicable.

In accordance with the above resolution, the Board calls your attention to the system adopted on the Pennsylvania Railroad, on the New York and New England Railroad, and to the "Gouge System of Heating and Ventilation," which is in use on many of the cars of the Delaware, Lackawanna and Western, and of the Harlem railroads (all of which systems are based upon the principle hereinbefore mentioned), and recommends in all cases when building new cars, and if their condition justifies it when repairing old ones, that they be heated and ventilated in accordance with the said principle.

The following resolution was also passed :

Resolved, That a recommendation be issued to the railroads in the State of New York to place a Fahrenheit thermometer in all passenger cars, about the

centre thereof (as is now done in many of the drawing-room cars), and to instruct those charged with maintaining the temperature to keep it as nearly as may be at the point of seventy degrees, and that said thermometer be compared from time to time with a standard thermometer, in order to insure its accurate register.

It is suggested that the thermometer used be not less than eight inches in length, that it be attached to a sheet of wood or other material, and that the graduation marks be extended in some such way as represented in the diagram shown on opposite page, so that they may be easily read in any part of the car.

It is scandalous that railroad authorities should disregard this matter upon which not only the comfort but the health of the traveling public depends.

The Board is now taking and recording observations upon the condition of the cars in the State as to temperature and ventilation and hopes to overcome the prejudice, ignorance and indifference of railroad authorities upon this important subject.

AUTOMATIC FREIGHT-CAR COUPLERS.

The Board has been carefully noting the action throughout the country with regard to this matter during the last year.

As a result of the practical tests, after extended notice, under the supervision of the Railroad Commissioners of Massachusetts in September of 1884, five different couplers were prescribed from which a choice can be made; a statute of 1884 requiring that after March, 1885, all new freight cars built or purchased for use, or old ones repaired within that State, shall be provided with an automatic coupler approved by the Board of Railroad Commissioners. The five selected were the Janney, Hilliard, Cowell, United States and Ames.

As a result of the tests made under the supervision of the Master Car Builders' Association at Buffalo, September 15 to 17, 1885, twelve were selected to be recommended for further trial in actual service. These were:

CLASS A.

Loose Link.

McKeen; pin supporters.

Perry; pin supporters.

Catch or Dog Substituted for Pin.

Archer, Gifford and Marks.

CLASS B.

Fixed Link.

Ames.

CLASS C.

Vertical Plane.

Dowling, Shermond ; gravity lock.

Hein, Janney ; lock effected by spring.

Cowell, Titus & Bossinger ; draw-bar, guided by boot as in Miller.

It was understood that a number of cars, fitted with each kind of coupler, would be equipped forthwith. Their behavior in actual service was to be carefully noted, and, it is to be hoped, will serve as a guide for a final selection within the next year.

Under the terms of section 4, chapter 439, Laws of 1884, the railroad companies of this State must select some form of automatic coupler for "any new freight car to be built or purchased for use" after July 1, 1886.

Inasmuch as the State of New York has a greater interest in this subject than any other, from the fact that there are a far greater number of cars coupled and uncoupled within her borders than within those of any other, this Board deems it proper, before the law goes into effect, to have a series of practical tests made under its supervision, after due notice to all parties interested, and will proceed so to do in the spring or early summer of this year.

SAFETY APPLIANCES.

The attention of the Board is frequently called to the consideration of safety appliances, both of those already in use and particularly of new inventions.

Some of them exhibit an extreme ingenuity — of that kind in which the American mind is peculiarly fertile.

The Board considers them all and, of some, makes a personal examination at the place where they are in operation.

It has been unwilling to positively recommend any for adoption (in the sense of using its powers of compulsion), except those which, by universal consent, are recognized as necessary for safety, and have passed beyond the realm of discussion — as, for instance, the air-brake, the Miller platform, etc.

It calls the attention of railroads to others, however, from time to time, and recommends a trial with a view to adoption if found practicable.

While the Board recognizes that there are many devices which are improvements, and which should and eventually will be adopted, it feels it wiser to make haste slowly in this direction, preferring to let actual trial and practical experience demonstrate their utility.

As an illustration, it has long been a *desideratum* to find some electric automatic apparatus which would give notice of an approaching train at a highway-grade crossing by sounding a gong or bell, and thus do away with the necessity of a flagman. Several such exist, each claiming superiority — some infallibility.

At the suggestion of the Board, one was erected by the New York, West Shore and Buffalo Railway Company, at South Bethlehem, at a point some distance from the track, the latter being obscured until the highway traveler was right on it. It appeared to work satisfactorily for a time, when the Board received a complaint to the effect that a farmer, hearing the bell ring, had waited three-quarters of an hour for it to stop before attempting to descend the hill to the track!

Upon application to the authorities of the West Shore for the record of the device, the following answer was received:

Our report from superintendent of telegraph and signals shows that the signal failed six times between April 23d and October 23d, 1885.

1. From the fact that the track instruments, which come in contact with the wheels, were at first made of iron, and were soon bent out of shape. They were subsequently replaced with steel.

2. Some person had broken the box and bent the interlocking lever on the relay, so that the bell circuit was left ringing constantly.

3. Relay had been tampered with and wire broken in the core of the magnet, and armature wrenched off by some person who had broken the lock to enter.

4. Insulation broken at first; clearance track instrument and wire broken by stone thrown on it; stone could not have fallen upon it in the position in which it was found.

5. Set by hand-car not going off the section, leaving the bell ringing.

6. Broken battery jar, and escape in one of the leaders.

By the above it will be seen that but two failures are attributed to signal faults. During the time named — six months — an average of twenty-four trains daily have passed this signal, making four thousand three hundred and ninety-two signal movements. Taking all the above facts into consideration, we think that the signal is reliable if not interfered with. We have been unable to place the responsibility for the evidently malicious destruction referred to.

Yours truly,

(Signed)

J. D. LAYNG,

General Manager.

The occasional failure from whatever cause, be it neglect, malicious interference, or inherent defect, seriously impairs its usefulness as a *sole* warning. It is like the man who is known to not *always* tell the truth. The periodic lie suffices to throw suspicion on every statement he makes.

As a general proposition, and after watching the results with much care, the Board is satisfied that automatic apparatus, whether

electric or mechanical, should serve only to *supplement* human watchfulness, not to *supersede* it.

In the former capacity it is invaluable, serving to keep men alert and to remind them of their duties; in the latter it is more dangerous even than unaided human care with all its proverbial weakness and fallibility.

For a full description of most of the various devices now in use you are referred to the report of the Inspector of the Board published at page 321 of the annual report for 1884.

Among the automatic safety gates which the Board has personally inspected since the above report was made may be mentioned one invented by Mr. O. H. P. Cornell, which was in operation on the Staten Island railroad near Tottenville.

An intelligible description cannot be given without drawings, etc., but it can be found in full in the *Railroad Gazette* of August 28, 1885.

The power to shut the gate is obtained by the locomotive wheel pushing a lever away from the track. The motion is transmitted by a bell crank to a cable of any required length, thence to the gate post where a simple but ingenious pendulum clock-work lowers the gate. It is opened again by power transmitted in the same way to a spiral spring immediately after the train has passed the highway.

Another was an electric automatic gate, owned and set up for trial by the Railway Cab Electric Signal Company at Stapleton, Staten Island. The village authorities required it to be taken down shortly after it was put into operation and the Board consequently has no record of its working. It was exceedingly ingenious.

Numerous other devices have been considered, as for instance, freight train automatic brakes, improved car wheels, axles, rail joints, torpedoes, switches, foot guards, Phelps' system of telegraphy by induction, etc., which cannot be described without taking up undue space in this report.

PROPOSED AMENDMENTS TO RAILROAD LAWS.

Section 9, chapter 353 of the Laws of 1882, makes it the duty of the Board to propose, for the consideration of the Legislature, such amendments to existing laws, and such new legislation as, in its judgment, are needed for the perfection and development of the general railroad policy of the State.

In the Legislature of 1884 the measures proposed by the Board, somewhat amended, were generally reported favorably, and were

left at the end of the session at the point of final passage. In 1885 they were again recommended to the same Senate and a new Assembly, substantially as approved by the Senate in 1884. The Senate passed the measures; the railroad committee of the Assembly reported upon them so late, and in such conflict with the Senate's action, and pressed for consideration so feebly, as to prevent the Assembly from disposing of them. Thus the desire of those who prefer that nothing shall be done to remedy the defects in our railroad statutes was accomplished.

In its first and second annual reports the Board discussed the legislation proposed, and gave its reasons therefor.

The amendments and laws heretofore suggested are these:

GENERAL RAILROAD ACT.

First—That section 2 be amended so that no incorporation of a railroad shall hereafter be permitted until the public necessity for its construction is certified by this Board, or in case of refusal by the Board, by a General Term of the Supreme Court of the department in which the construction is proposed.

The standing argument against this measure is, that the more railroads there are, the greater is their competition, the lower their rates, etc., and that thus the public is benefited by the existing law. Our experience with new railroads, paralleling existing lines, has disproved these assertions so often and so plainly that he who runs may read, and has taught us that such new railroads cause vast waste of capital, immense loss to misguided investors, and, after a brief period of destructive competition are skillfully imposed as additional burdens upon the people and their business. The results of building the West Shore, as hereinbefore mentioned, are a conspicuous illustration.

The money to build this road is believed to have come principally from outside purchasers of the securities. A flush money market yielded easily to the inducements held out and strangely saw in the general clamor for a competition with the old road, the promise of handsome returns. After the partial completion of the new road what followed?

1st. Eighteen months of competition.

2d. The collapse of the new road, and the wiping out of millions of the earnings and savings of the people.

3d. The leasing of the new road by the older one under the Leasing Act of 1839, the additional burden being hereby placed upon

transportation, of paying the stipulated rent, besides the excess of the cost of the operation of a separate line over what it would cost to do the same business on the older line.

That this enterprise will ultimately cause an additional burden to be borne by transportation is obvious.

The West Shore was begun at a time when the capacity of the New York Central had not nearly been reached. Until that capacity is reached, the transportation, now divided between the two roads, could be done more cheaply and at a less tax upon the public by the New York Central than it ever can possibly be done with two separate lines to be maintained and operated.

It was charged that the New York Central was a monopoly, and that its local rates were too high. Concede all this for the sake of argument, and we ask, has the experiment made under the free railroad building act cured the evil? After eighteen months of cure, if it be so considered, it is probable that a larger tax upon transportation will be required than if there was but one road. Had the Leasing Act of 1839 been amended as recommended by this Board (page 73, First Annual Report), and in the amendments proposed to the Legislature, so as to forbid parallel and competing lines leasing each other, this consolidation, under the form of a lease, could not have taken place. But even then competition would soon have ended in a "pool" or in some other device to make transportation pay for double the service, it required. By such a lease, or by such a "pool," or other device, the public are placed in the position of a man compelled to hire four horses to draw his buggy.

This is not the place to endeavor to ascertain how the evils of a railroad without a parallel competitor can be cured. It is enough to sanction the amendment to prove that needless duplication of parallel lines does not cure, but adds to existing evils other and worse public losses and unnecessary burdens.

Second — That section 5 be amended so as to provide that when a road is foreclosed and reorganized the *capital stock of the new corporation shall not exceed that of the old company, unless an increase is authorized as provided in section 9.*

In 1882, public indignation about the "watering" of stocks caused the Legislature to amend section 9 so as to provide that the stock of railroads should not be increased without the approval of this Board. The Board has been careful not to grant any application contrary to the spirit and design of the amendment. In spite of section 9 and its provisions, any increase desired can be obtained under section 5 by foreclosure and reorganization.

Section 5 ought to be amended as suggested in order to carry out the intention of the amendment of section 9.

Third — To the Legislature of 1884 it was recommended that section 9 be amended. The section is the one under which the capital stock of corporations may be increased. The design of the amendment was to provide that the increase should not be disposed of otherwise than at par for cash to stockholders according to the stock held by each, except in cases where, upon due notice to stockholders, the court should approve of some other disposition to be made by the directors. Were such the law, no secret disposition of the stock could be made adverse to the interests of the stockholders or the public. The amendment was rejected in 1884 in the committee of each house, and hence was not again recommended in 1885.

Fourth — That section 18 be amended so that in each and every case of abandonment after an award is made, the company shall not renew proceedings to acquire title to lands without a tender or deposit in court of the amount of the first award and the interest thereon. This was to prevent railroad companies from continuing indefinitely to apply for commissioners to take land, and then to abandon the awards made, until a result satisfactory to the company may be obtained. The Legislature of 1884 rejected it and it was not, therefore, again recommended. The statute ought clearly to be so amended.

Fifth — That section 24 be amended so as to require railroads hereafter constructed to pass over or under streets, highways and other railroads, except in cases where the Supreme or county court shall permit grade crossings under proper regulations. There never has been serious dispute before the Legislature as to the necessity of this amendment. Had this been the law hundreds of grade crossings in the construction of the West Shore could have been avoided. Grade crossings are most dangerous to life and limb, and in the end cost railroads far more to guard and protect with gates and flagmen, than if carried over or under when first built. As population and traffic increase, the necessity for this change in the law becomes more and more apparent. The Board suggests a further amendment, to this section. There are in the State many street and highway crossings where alterations in the approaches or in the crossings, by carrying the same over or under the railroad, are practicable. At other places the highway is in a "blind" cut, and on either side of it is an embankment, or growing timber and brush, which cut off all view of approaching trains. These could

be made safe by the purchase of some land and by grading down the embankment or by cutting off the timber. At other crossings the railway tracks and traffic have so increased as to impede highway travel and to endanger its safety, making the erection of a bridge a necessity. Thus numberless instances can be given, and will readily occur to those giving attention to the subject in each locality, where present conditions require that some change be made in order to reduce the danger at street and highway crossings to the minimum. Gates and flagmen should only be relied upon where safety cannot be secured by permanent and practical changes in construction. To meet the necessity pointed out, the courts should be authorized, through commissioners, upon the application of either railroads or highway authorities, to determine what changes shall be made at street or highway crossings or approaches; by whom made and maintained; by whom paid for, or if the expense is to be divided, how divided, etc. Thus with justice to all concerned, a system of improvement would be begun which, in time, would remedy many existing evils, with benefit alike to the public and to railroads. The draft of a law upon this subject will be submitted to the Legislature.

Sixth — The amendment of section 9 in 1882, by which it was forbidden to increase the stock of railroad corporations without the approval of two-thirds in amount of stockholders, pertinently suggested a like amendment to subdivision 10 of section 28. There is now no limit to the powers of directors to bond the property in their trust. The entire propriety of requiring that the directors and officers shall not issue bonds without the consent of the stockholders, duly expressed at a meeting called for that purpose, seems to be clear.

It is a serious question whether this subdivision ought not to be further amended so as to forbid the bonding of railroad properties for any sums exceeding in the aggregate the capital stock paid in. Upon its face a railroad bond is supposed to be based upon capital stock to a large extent at least, paid in, and expended in construction. As a matter of fact roads are often built upon the proceeds of bonds, little or nothing being realized or expended from capital stock. The amendments suggested would improve the character and standing of railroad bonds, by always placing back of them an equal expenditure of capital stock. The Board also suggests, for the consideration of the Legislature, the propriety of requiring the consent of the Board of Railroad Commissioners, under certain well

defined regulations, to the issue of railroad bonds, as well as for the increase of capital stock.

Seventh — In the Consolidation Act of 1869, the State declared its policy to be that "*parallel and competing lines shall not merge or consolidate.*" In 1884 the Board recommended that the act be amended by adding thereto the further provision that "*No officer or director of a railroad corporation shall hereafter become an officer or director in any other railroad corporation owning or operating a parallel or competing line of railroad.*"

This amendment would prevent one obvious method of evading the prohibition against merging or consolidating parallel or competing lines. The attention of the Legislature is again respectfully called to the subject.

Eighth — The Leasing Act of 1839 reads as follows :

"It shall be lawful hereafter for any railroad corporation to contract with any other railroad corporation for the use of their respective roads, and thereafter to use the same in such manner as may be prescribed in such contract. But nothing in this act contained shall authorize the road of any railroad corporation to be used by any other railroad corporation in a manner inconsistent with the provisions of the charter of the corporation whose road is to be used under such contract."

What in substance amounts to merger and consolidation of parallel and competing lines has been, is being and will be continued under this act so long as it remains in its present shape.

The Consolidation Act of 1869 forbids the merging and consolidation of parallel and competing lines, while the Leasing Act of 1839 permits it under the form of a lease for any period.

The Legislature of 1884 rejected the amendment submitted and urged by the Board, which amended the Leasing Act so as to forbid the leasing of parallel or competing roads.

The leasing of the West Shore by the New York Central has apparently been accomplished pursuant to law under this act. This amendment was rejected in the railroad committee of the Senate as well as in that of the Assembly in 1884. It was deemed useless to again present it to the same Senate committee of 1885.

The further amendment of this law was proposed to the Legislature of 1884 and 1885, by which such leases should be submitted to stockholders for approval in the same manner as the act of 1869 requires agreements for consolidation to be submitted and approved before becoming operative.

This amendment, so obviously just towards stockholders and the public, has always been reported and acted upon favorably in committee. The Senate of 1885 passed the bill, but in the Assembly it was allowed to drag and die with the close of the session.

Ninth — In 1885 the Board recommended the passage of an act to prevent discrimination by railroads against shippers by canal.

A statement of the reasons of the Board for favoring this act will be found in the second annual report, pages 83, 107, 120, etc. This act was passed by the Senate, but reported adversely in the Assembly, and there killed, as was the fate of substantially every measure of a remedial nature referred in the Assembly to its railroad committee.

Tenth — In its First Annual Report the Board discusses at length the law regulating the liability of a master to a servant for injuries received by the latter through the negligence of a fellow servant. It reached the conclusion, Commissioner Rogers not voting, that the law should be changed by the passage of an act, which will be found in the Second Annual Report, page 54.

No action thereon has ever been taken.

Eleventh — In its First Annual Report, the Board presented the subject of amending the Commission Act in the following language:

"Section 6 gives the Board general power to recommend any repairs, improvements and changes deemed by it reasonable and expedient in order to promote the security, convenience and accommodation of the public, whether relating to fares, freights or any other department of operation. The section then provides that 'if the corporation neglects or refuses to make such repairs, improvements or changes within a reasonable time after such information and hearing, and shall not satisfy said Board that no action is required to be taken by it, the said Board shall present the facts in the case to the Attorney-General for his consideration and action.'

"A recommendation of the Board is made final and absolute. No penalties, however, are imposed, or method of testing the propriety of the recommendation is provided. Just what the Attorney-General could do is by no means clear, beyond his bringing an action to vacate the charter of the corporation, which oftentimes would be a very improper and inapplicable remedy. If the Legislature thinks that any change should be made in the law to correct this defect, the Board would suggest that the best method to enforce its decisions, or to review them, if unjust or unreasonable, would be to amend the act by providing:

"1. That railroads shall be obliged to comply with *reasonable and expedient* recommendations.

"2. That failure to so comply with such recommendations shall subject them to adequate penalties.

"3. That in all actions for penalties hereafter incurred, the recommendations of the Board and its findings shall be *prima facie* evidence of the facts found, and of the *reasonableness and expediency* of the recommendations made.

"Thus the people could enforce recommendations that are right.

"Thus railroads could contest such as might be unjust and unreasonable, and protect themselves from public odium for their refusals to obey.

"Thus the findings and decisions of the Board would be free from that autocratic character which they seem now to possess, and yet could be used in actions by the people for penalties to establish *prima facie* the facts upon which the

action would be based, and to place properly upon railroads the onus of proving the findings and recommendations of the Board to have been wrong. We say properly placing this onus upon railroads because it seems ridiculous that the hearings before the Board and its labors should go for nothing, and again because all the facts and data relating to such matters are usually within the exclusive knowledge and possession of railroads."

In its Second Annual Report the Board said upon this subject :

"The Board again desires to call particular attention to the extent of its powers and the results accomplished by their exercise. On the part of many railroads there has been a prompt and ready compliance with the recommendations of the Board. On the part of others, there has been procrastination usually accompanied with profuse promises. The Board is enabled to make its investigations thoroughly, and usually to ascertain all material facts. In courts and before juries this would be well-nigh impossible. There is now practically no way by which the people can compel railroads to conform to proper and just recommendations, neither is the work of the Board, by the rules of evidence, of any use to litigants, whether railroads or individuals."

Its experience during the past year has satisfied the Board that its labors would be more beneficial to the people, and that no injustice would result to railroads were the Commission Act amended as was suggested to the Legislature of 1883.

On February 11, 1885, the Board received the following communication from the Attorney-General :

"ALBANY, February 11, 1885.

"To WILLIAM C. HUDSON, Esq., *Secretary of Board of Railroad Commissioners* :

"DEAR SIR — Referring to certain papers pertaining to complaints sent to this office from your Board, it appears that no power is given to the Board to enforce its reasonable recommendations and in such cases, in pursuance of the provisions of sections 5 and 6 of chapter 353 of the Laws of 1882, which act created the Board of Railroad Commissioners and defined and regulated their duties, these have been transmitted to the Attorney-General for his consideration and action in order that he may take such proceedings thereon as may be necessary for the protection of public interest.

"In undertaking to compel compliance with the recommendations of the Commission I am embarrassed by the uncertainty which manifestly exists with reference to the legal force and effect to be given to the decisions and recommendations of the Commissioners under the provisions of sections 5 and 6 of the act above referred to.

"There are many expressions in these sections which would indicate that the law making power intended that your decisions, when duly made and entered in the manner prescribed in the act, should be entitled to the same respect and have the same binding force as legislative enactments or decrees of a competent tribunal.

"If the language employed is susceptible of such a construction, there would be no difficulty in compelling obedience on the part of railroad companies to the recommendations of the Board, for in such a case compliance therewith would be a legal duty enforceable in the same manner and by the same remedies as any other statutory duty. But it does not require a critical examination of these

sections to reach the conclusion that such a construction is open to serious question in absence of any adjudication upon the subject.

"It seems to me that so important a statute, affecting great public interests and designed to be remedial in its purpose, ought to be so amended that no doubt could exist as to its intent and true interpretation. This could be accomplished by adding to these sections a provision to the effect that it should be the duty of railroad companies to comply with the decisions and recommendations of the Commissioners, and that obedience thereto might be enforced by *mandamus* or other appropriate legal proceedings.

"The present statute also fails to declare what effect shall be given to the decisions of the Board as evidence.

"Power is conferred upon the Commissioners to cause witnesses to be subpoenaed and examined and proofs taken, and their proceedings partake of all the qualities of a judicial inquiry, and yet their decisions are not admissible in any other tribunal as evidence of the truth of the facts found by them. As the railroad company is always given an opportunity to be heard and to be represented by counsel and to cross-examine the witnesses of the complainant and introduce testimony in its own behalf, no injustice would be done if the law should be so amended as to declare that in any proceeding instituted by the Attorney-General to enforce the decisions of the Railroad Commissioners, their findings should be *prima facie* evidence of the facts found by them. Much delay and expense in the practical enforcement of the law would in this way be avoided.

"I observe that by section 9 of the act of 1882, it is made the duty of the Railroad Commissioners to make such suggestions as to the amendment of the railroad laws of the State as may seem to them appropriate and to recommend and draft for the Legislature such bills as will, in their judgment, protect the people's interests in and upon the railways of this State.

"I am, therefore, constrained to believe that if your Board should recommend to the Legislature now in session an amendment to the act of 1882 as to the respect above suggested, accompanying the recommendation with the draft of an appropriate bill for that purpose, the measure would receive at the hands of the Legislature such consideration as its merits and importance demands.

"Very truly yours,

"(Signed)

D. O'BRIEN,

"Attorney-General."

Acting under the suggestion of the Attorney-General the Board recommended the following as an amendment of section six of the Commission Act:

AN ACT to amend chapter three hundred and fifty-three of the Laws of eighteen hundred and eighty-two, entitled "An act to create a Board of Railroad Commissioners and to define and regulate their duties and powers."

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section six of chapter three hundred and fifty-three of the Laws of eighteen hundred and eighty-two, entitled "An act to create a Board of Railroad Commissioners and to define and regulate their duties and powers," is hereby amended so as to read as follows:

§ 6. Whenever, in the judgment of the said Board of Railroad Commissioners, after a careful personal examination of the same, it shall appear that repairs are necessary upon any railroad within this State, or that any addition to the rolling stock, or any addition to or change of the stations or station houses, or that additional terminal facilities shall be afforded, or *whenever in the judgment of said Board it shall appear* that any change in the rates or fare for transporting freight or passengers, or that any change in the mode of operating the road and conducting its business, is reasonable and expedient in order to promote the security, convenience and accommodation of the public, the said Board shall give notice and information in writing to the corporation of the repairs, improvements, additions or changes which they deem to be proper, *after giving* such corporation an opportunity for a full hearing thereon, *and shall fix the time within which the same shall be made, which time the Board may extend.* It shall be the duty of the corporation, person or persons owning or operating said railroad to comply with such recommendations of said Board as are just and reasonable. The supreme court shall have power in all cases of recommendations by said Board to compel compliance therewith by mandamus. In all actions or proceedings brought by the Attorney-General to recover penalties imposed by law, or to compel compliance with the recommendations of the Board, or brought in pursuance of a report made to him by the Board, under the provisions of section five of this act, the findings of the Board shall be prima facie evidence of the facts therein stated, and the recommendations of the Board shall be deemed prima facie to be just and reasonable. Nothing herein contained shall impair in any manner or degree the legal liability of any railroad company for the consequences of its acts, and all existing remedies therefor at the suit of the people, or of individuals, are hereby saved and preserved.

§ 2. This act shall take effect immediately.

It was not the intention of the Board to ask for more power for itself, but the proposition urged in the report and in the amendment proposed was, that it shall be made the duty of railroads to comply with such of the recommendations of the Board as the courts shall determine to be just and reasonable, and after determination in the affirmative to enforce obedience thereto, the findings of facts by the Board to be admissible as evidence before the court. It was not suggested that such findings of fact should be conclusive evidence, but that they be *prima facie* evidence only, and that thus the onus of disproving the accuracy of the facts shall be upon the railroad, or other party against whom the findings are made.

The following table shows the cases in which recommendations have been disregarded, their nature, and the date when turned over to the Attorney-General :

No.	Complainant.	Road.	Date of Decision.	Recommendation of Board.	Sent to Attorney-General.
10	A. D. and R. D. Foot	Utica and Black River	September and Dec. 23, 1884.	Rates to be equalized.....	Jan. 16, 1885.
17	Richardson & Co	do do	do do	do	Jan. 16, 1885.
22	R. F. Murray	do do	do do	do	Jan. 16, 1885.
74	Citizens of Constableville	do do	do do	do	Jan. 16, 1885.
63	Citizens of Sandy Creek	Syracuse and Northern	April 21, 1884.....	Road to be restored, etc.....	Nov. 14, 1884.
81	Village of Haverstraw	N. Y., O. and Western. ..	September 23, 1884.	Platform and station to be erected...	Dec. 1, 1884.
102	S. and J. W. Post et al	Long Island	May 5, 1885.....	Rate to be reduced	July 1, 1885.
130	Citizens of Hamburg	N. Y., L. E. and Western	June 23, 1885, Resolution....	Depot to be constructed.....	June 23, 1885.
	Railroad Commissioners...	John King, N. Y., L. E. & West'n	July 7, 1885, do ...	Milk statistics requested.	July 8, 1885.

The following is the action of the Attorney-General as reported to this Board :

STATE OF NEW YORK:

OFFICE OF THE ATTORNEY-GENERAL, }
ALBANY, December 15, 1885. }

WILLIAM C. HUDSON, Esq., *Secretary Board of Railroad Commissioners, Albany, N. Y.:*

DEAR SIR — I have the honor to transmit to you a report of the action of the Attorney-General's Department upon the several matters that have been referred to that department during the past year by the Board of Railroad Commissioners of the State of New York, and the present *status* of each case so referred.

In the matter of the complaint of four different parties against the Utica and Black River Railroad Company, for discrimination in freight charges, which was heard before the Board of Railroad Commissioners and recommendations made thereon, which were not complied with by the road, notice of intention to take proceedings to enforce the determination of the Board was given to the railroad company. I was attended by the officers of that company, in company with one of the members of the Board of Railroad Commissioners, and a conference was had, the result of which was that this officer determined to bring action against the road to test the questions involved. Subsequently, before the actions were brought the freight rates on that road were modified to the satisfaction of the complainants, as this officer was informed by the counsel of the road.

In the matter of the complaint of the citizens of Sandy Creek against the Rome, Watertown and Ogdensburgh Railroad Company, which was heard before the Board of Railroad Commissioners and a determination made therein directing that the portion of the road of the Rome, Watertown and Ogdensburgh Railroad Company should be restored which had theretofore been abandoned; application was made by me to the Supreme Court for a writ of peremptory *mandamus*, compelling that road to restore and operate that portion of its road, the abandonment of which was complained of. Argument was had at the Special Term of the Supreme Court and a peremptory writ of *mandamus* was issued out of that court, in behalf of the people, directing the rebuilding of the abandoned portion of said road. An appeal was taken by the railroad company from that decision to the General Term of the Supreme Court, where the judgment and order of the Special Term awarding the writ was affirmed. The railroad company intend to appeal, as I am advised, to the Court of Appeals.

In the matter of the complaint against the New York, Ontario and Western Railroad Company by the citizens of the village of Haverstraw, which was heard by the Board of Railroad Commissioners, and in which the determination was that the New York, Ontario and Western Railroad Company should erect a platform and station at the village of Haverstraw, correspondence was had with the officers of the company and the matter was adjusted, as I was advised, by the erection of a suitable station and platform in

the village, as recommended by the Board of Railroad Commissioners.

One complaint against the Long Island Railroad Company, and another arising out of the complaint in relation to milk statistics, was received from the Board. Action upon these two complaints has been deferred, pending the decision of a case which was on appeal to the Court of Appeals, incidentally involving questions which would be at issue in a proceeding instituted upon those complaints, and also pending the decision of the court upon the *mandamus* against the Rome, Watertown and Ogdensburgh Railroad Company, but attention on these two cases upon the part of this department will be immediate.

In the case of the complaint of the citizens of Hamburg against the New York, Lake Erie and Western Railroad Company, which was heard by the Board of Railroad Commissioners and in which they recommended the erection of a suitable depot building at the village of Hamburg, Erie county, the officers of the road declined to comply with the direction of the Board of Railroad Commissioners, and thereupon application was made to the Special Term of the Supreme Court in Erie county for a peremptory writ of *mandamus* to compel the erection of a suitable depot building for the accommodation of freight and passengers on the line of the New York, Lake Erie and Western Railroad Company, at the village of Hamburg. Argument was had before the Special Term on the application for the writ, and a decision has just been received awarding a peremptory writ of *mandamus* directed to said New York, Lake Erie and Western Railroad Company and commanding it to provide a suitable depot building at Hamburg for the accommodation of freight and passengers.

I would respectfully call to the attention of the Board of Railroad Commissioners a communication which I addressed to that Board about one year ago relative to amendments which should be made to the act creating the Board of Railroad Commissioners, and ask the Board to urge upon the Legislature, at the coming session, the advisability of adopting such measures as will meet the objections which exist to the act creating the Board of Railroad Commissioners, which I pointed out in my former communication

Very truly yours,

D. O'BRIEN,
Attorney-General.

Twelfth — On the 26th day of January, 1885, the Board sent to the Legislature the following communication :

"AN ACT to amend chapter three hundred and seventy-eight, Laws of eighteen hundred and eighty-three, entitled 'An act in relation to receivers of corporations.'"

"The People of the State of New York, represented in Senate and Assembly, do enact as follows:

"SECTION 1. Section two, chapter three hundred and seventy-eight, Laws of eighteen hundred and eighty-three, is hereby amended so as to read as follows:

"§ 2. Every receiver shall be allowed to receive as compensation for his services as such receiver, five per cent for the first one hundred thousand dollars actually received and paid out, and two and one half per cent on all sums received and paid out in excess of the said one hundred thousand dollars. *But no receiver shall be allowed or shall receive, from such percentages or otherwise, for his said services for any one year, any greater sum or compensation than twenty thousand dollars, nor for any period less than one year more than at and after the rate of twenty thousand dollars per year. But where more than one receiver for any corporation shall be appointed, the compensation herein provided shall be divided between such receivers in proportion to the services rendered by each.*

"§ 2. This act shall take effect immediately."

The bill did not pass. There is no greater scandal in the State than the excessive sums which can legally be claimed by receivers of bankrupt corporations for services under the law as it stands. The iniquity is unique which selects the diminished assets of such corporations for the purpose of exorbitantly paying for the services of those selected by law to administer upon their estates for the benefit of creditors, bondholders and stockholders. The receivers of the West Shore are claiming, as is currently reported, that they are entitled to \$750,000 fees for services which have been judicially determined to be worth \$80,000. The present statute ought to be speedily amended and a reasonable limit should be fixed for the fees to be paid to receivers.

Thirteenth — The following was recommended to the consideration of the last Legislature :

"AN ACT to establish the responsibility of railroad corporations for damages by fires communicated from their locomotive engines.

"The People of the State of New York, represented in Senate and Assembly, do enact as follows :

"SECTION 1. Every railroad corporation shall be responsible in damages to any person or corporation whose buildings or other property may be injured by fire communicated directly or indirectly by its locomotive engines, and shall have an insurable interest in the property upon its route for which it may be so held responsible, and may procure insurance thereon in its own behalf.

"§ 2. This act shall take effect immediately."

Under the decisions in the State of New York, railroad companies are not liable for damages caused by fire set by their locomotives, unless guilty of negligence in the construction or operation thereof. (*Fero v. Buff. & State Line R. R. Co.*, 22 N. Y. 209; *Field v. N. Y. C. R. R. Co.*, 32 id. 339; *Ryan v. N. Y. C. R. R. Co.*, 35 id. 210.)

Such a statute as is proposed has been in force in Massachusetts since 1840.

In a long line of decisions it is commended as being in accordance with sound public policy. (13 Metc. 99; 93 Mass. 414; 103 id. 583; 4 Cush. 288; 16 Gray, 71; 2 Allen, 351; 4 id. 438.)

In *Ross v. Boston & Wor. R. R. Co.* (6 Allen, 90), Bigelow C. J. says:

"It is not a penal statute but purely remedial in its nature; and it is to be interpreted fairly and liberally, so as to secure to parties injured an indemnity from those who reap the advantages and profits arising from the use of a dangerous mode of locomotion, by means of which buildings and other property are destroyed."

In *Meacham v. Fitchburg R. R. Co.* (4 Cush. 291), Dewey, J., says:

"We consider this provision of the statute of 1840, chap. 85, as one of those general remedial acts passed for the more effectual protection of property against the hazards to which it has become subject by the introduction of the locomotive engine. The right to use the parcel of land appropriated to a railroad does not deprive the Legislature of the power to enact such regulations, and impose such liabilities for injuries suffered from the mode of using the roads as the occasion and circumstances may reasonably justify."

Under the Massachusetts act the railroad is held liable for damages whether communicated directly by the locomotive, or whether indirectly by a fire set by the locomotive. The railroad is liable to all whose property is damaged to the end of the conflagration originally set by a locomotive. (*Perley v. Eastern R. R. Co.*, 93 Mass. 414.)

Ryan v. N. Y. C. R. R. Co. (35 N. Y. 210), holds that a railroad which sets a fire through negligence is only liable to the owner of the property which catches fire directly from the locomotive, and is not liable for the damages caused by the spreading of the fire to the property of more remote owners. The case is somewhat questioned in late decisions. (See *Pollet v. Long*, 56 N. Y. 206; and *Webb v. R. W. & O. R. R. Co.*, 49 id. 427.) The doctrine laid down in *Ryan v. N. Y. C.*, seems to be generally disapproved in the U. S. Courts and in other States. In view of this case, however,

it would be well to insert after the word "communicated" in the proposed statute, the words "directly or indirectly." The proposed statute thus amended would enact into law the Massachusetts statute as there construed by the courts.

The provisions giving to railroads an insurable interest in property for which they may be held responsible are ample to enable railroads to protect themselves against any disastrous results to them financially under the statute.

In view of the fact that such a statute has been tested for forty-five years in Massachusetts, it may safely be assumed that the liability imposed is not unduly onerous.

The change in the law as proposed would tend to make our railroads more careful about setting fires and much more active in aiding to extinguish them when started.

The Board is therefore of the opinion that the proposed act is wise and just.

Fourteenth -- The increased use and transportation of explosive materials, such as dynamite, nitro-glycerine, blasting oil, etc., has generally caused the passage of stringent laws, designed to protect the traveling public and the carrier from their dangers.

It is clear that they ought not to be transported at all by carriers in any train, vessel or vehicle used for passenger carriage; nor ought their transportation to be permitted at all unless properly and securely packed, so that the danger of explosion shall be at the minimum. Deception in packing or shipping such dangerous explosives ought to be made a punishable offense. An act has been prepared, and will be submitted to your consideration, upon this subject.

CONCLUSION.

The thanks of the board are due to its Secretary, William C. Hudson, to its inspector, Thomas W. Spencer, to its accountant, Henry M. Thompson, and to its bridge engineer, Charles F. Stowell, for the intelligence and earnestness with which they have aided the Board in their various departments. The Board also testifies with pleasure that its marshal, clerks and stenographer have been faithful to their duty and diligent in its discharge.

[L. s.]

JOHN D. KERNAN,
WILLIAM E. ROGERS,
JOHN O'DONNELL,
Commissioners.

WILLIAM C. HUDSON,
Secretary.

APPENDIX.

Decisions and Recommendations.

Executive and legislative references.

Complaints of cities, towns, associations, individuals, etc.

Application for increase of capital stock.

Accidents and accident inquiries.

Crossings at grade.

Length of railroads.

Inspections.

Minutes of the Board.

New companies formed in 1885.

Companies reorganized in 1885.

Companies consolidated in 1885.

Extension of routes during 1885.

Enactments of the year 1885.

Railroads of the State, when opened for public use.

Companies formed, arranged by years.

Companies formed in each year.

Companies arranged alphabetically.

Contract between trunk line railroads.

General Railroad law, and all laws (classified) relating to the railroads of this State.

DECISIONS AND RECOMMENDATIONS.

EXECUTIVE AND LEGISLATIVE REFERENCES.

I.

FINDINGS AND CONCLUSIONS OF THE BOARD OF RAILROAD COMMISSIONERS ON ASSEMBLY BILL 129, REFERRED BY THE GOVERNOR TO THE BOARD UNDER THE PROVISIONS OF SECTION 9, CHAPTER 353, LAWS OF 1882, ON JUNE 9, 1885.

To the Governor :

SIR—In response to your communication of the 9th inst., to-wit:

STATE OF NEW YORK:

EXECUTIVE CHAMBER, }
ALBANY, June 9, 1885. }

To the Board of Railroad Commissioners :

Under the provisions of section 9, chapter 353 of the Laws of 1882, I hereby request that you will take testimony upon, and have hearing for and against the change in the charters of the "Catskill Mountain Railroad Company" and the "Stony Clove and Catskill Mountain Railroad Company," proposed in Assembly Bill No. 129, entitled "An act to amend an act entitled 'An act to authorize the Kaaterskill Railroad Company to charge and collect rates of fare for passengers upon its road,' passed February twenty-seven, eighteen hundred and eighty-three, and known as chapter sixty-six, by extending the provisions thereof so as to apply to the Catskill Mountain Railroad Company and the Stony Clove and Catskill Mountain Railroad Company," now before me.

I hereby transmit to you the aforesaid bill, with briefs and other documents relating thereto, to be returned to me with your findings.

Your attention is called to the fact that the time during which the Governor may act upon the bills left before him at the date of the adjournment of the Legislature will expire on Saturday, the 13th inst. Your findings, therefore, must necessarily be returned to me before the expiration of that date.

(Signed)

DAVID B. HILL.

The Board of Railroad Commissioners respectfully reports its findings and conclusions.

The act proposes to extend to the Catskill Mountain Railroad Company and to the Stony Clove and Catskill Mountain Railroad Company the right now exercised by the Kaaterskill Railroad Company of charging ten cents per mile and fraction thereof for passenger fares; all three roads being narrow-gauge railroads in the Catskill mountains and wholly within Greene county, except three or four miles of the Stony Clove road in Ulster county.

A public hearing was had at the office of the Board on Wednesday, June 10.

The railroads and petitioners were represented by Mr. S. D. Coykendall, president of the Stony Clove and Catskill Mountain Railroad Company, Alton B. Parker, Esq., counsel, J. I. Werner, Esq., counsel for the Catskill Mountain Railroad Company, and Charles A. Beach, superintendent of the same, Joel W. Mason, Esq., and others.

The remonstrants were represented by the Hon. A. Schoonmaker, counsel, and Samuel S. Mulford, John J. Carr, Nelson Campbell and others, boarding-house keepers in the town of Hunter.

Judge Schoonmaker also represented the Kaaterskill Railroad Company.

Much testimony was taken and discussion had.

The papers and briefs filed with your Excellency have also carefully been considered by the Board.

PUBLIC SENTIMENT AS TO BILL.

In favor of the bill there are number of petitions, as follows :

1st. One signed by 743 names of citizens and property owners in the village of Catskill and vicinity. It includes those of a large number of business men, hotel and boarding-house keepers, etc., such as C. S. Beach, proprietor of the Mountain House; Thos. C. Teale, of the Winchelsea Cottage; Philo Peck, of Maple Grove House; John R. Hinman, O. F. Payne, of the Hinman House; C. L. Goodwin, of the Goodwin House; C. Dubois, of the Pine Grove House.

The above names claim to represent a majority of the boarding interest at the western terminus of the Catskill Mountain road, and the statement is made by Thos. C. Teale, proprietor of the Winchelsea Cottage, that had more time been given "nine-tenths of the people in this locality would have signed the petition."

2d. A petition signed by 188 names, as follows: "We, the undersigned residents, either immediately along the line of the Stony Clove and Catskill Mountain railroad or in the settlements through which it runs, petition and request your Excellency to sign Assembly Bill 129, increasing the rates of fare on the railroad above named, for the reason without the increase the railroad will only be operated a few months in the year, which will result in serious loss and inconvenience to the business interests and people depending upon it."

3d. A petition to the same effect as the second mentioned, including, however, the names of proprietors and employees in chair manufactories in addition to those of other merchants, signed by 173 names.

4th. A petition praying your Excellency to approve the act "as the failure of the bill would throw a large number of railroad employees out of employment for the greater part of the year," signed by fifty-one names.

5th. A petition in the following words, signed by twenty-two names: "We, the undersigned, residents of the localities through which the Stony Clove and Catskill Mountain railroad passes, and who heretofore signed a petition asking your Excellency to *withhold* your signature from Assembly Bill 129, to increase the rates of fare on said railroad, do hereby withdraw our names from said petition for the reason that

we were misinformed as to the facts and misunderstood the status and object of said bill at the time of giving our signatures as aforesaid, and we do now, having fully and fairly examined into the facts, respectfully petition your Excellency to sign said bill."

6th. A petition of seven directors of the Ulster and Delaware Railroad Company.

7th. A petition from Hewitt Brill and E. Sweeny & Sons, dealers in blue stone, on the line of the Stony Clove and Catskill Mountain road.

In addition to the above there are a number of letters from proprietors of chair factories, and other prominent men, heartily approving the bill. Among them is one from Judge A. M. Osborn, Justice of the Supreme Court, in which he says: "I am heartily in favor of it myself, because I know it is right; besides I know the application of your signature to the bill is approved by representative men, our very best; and fully represents the wishes of substantially all our people."

In a letter from Mr. S. D. Coykendall, president of the road, he says. "The bill was passed by the Legislature after full discussion in committees. It was printed in newspapers in the district affected by it, and publicly discussed, and no opposition was manifested in the Legislature except by parties interested in the Kaaterskill Railroad Company, which road already has the privileges asked for by the other roads mentioned in the bill. * * * Immediately after the hearing the opposition proceeded secretly to get up a remonstrance, and after nearly a week's exertion they presented one containing about 230 names. * * * This morning, after two days' work, we presented to your Excellency petitions containing about 1,400 names, not obtained by any questionable proceedings, but by the active exertions of prominent business men, interested in the success of the bill."

Against the bill there are two remonstrances, one signed by 229 names in the following words:

"We, the undersigned inhabitants dependent upon the Stony Clove and Catskill Mountain railroad for the transportation of our persons and property; and all of us residents either immediately along the line of said railroad or in the settlements through which it runs, do hereby protest to the bill now before you to increase the fare to ten cents a mile over the line of said railroad; and we hereby earnestly petition your Honor to veto the bill authorizing the increase of fare to ten cents a mile."

A second remonstrance to the same effect by residents along the line of both roads is signed by 201 names. Accompanying the latter is an affidavit from Samuel S. Mulford, setting forth that he has been a resident of the town of Hunter, Greene county, since 1860, and for nine years was supervisor of said town; that Messrs. Lockwood and Mason are directors of the Stony Clove and Catskill Mountain Railroad Company; that they have three large chair factories on the line of said road, and that they have about 150 men in their employ; that a large number of the names on the petition for the bill are those of such employees, and that "said deponent has learned from some of said employees said names were procured by representations from the proprietors of said factories and said directors; that unless said bill became a

law said factories would probably cease doing business and that there would be no work for the men." It is proper to say that at the hearing Mr. Mason positively denied this assertion. The deponent further states that the petitioners against the bill "embrace the proprietors of every boarding-house in the vicinity," that he has learned from one of the persons who signed against the bill and afterward for it that such latter signature was procured by representations that unless said bill was passed said road would cease to run.

There is also a letter from Mr. F. B. Thurber opposing the bill, suggesting, however, that the matter be referred to the Board of Railroad Commissioners for examination as to capital expended, etc. He expresses as his opinion that public sentiment is unanimous against the bill, except on the part of the employees of the stockholders of the road.

From the above it appears that public sentiment is somewhat divided as to the measure, but that a large preponderance is in favor of the bill; in the proportion to about 1,200 for it to 450 against it.

In the brief of the counsel for the opponents of the bill, the Hon. A. Schoonmaker, the measure is opposed, first, on constitutional grounds; second, on its merits.

I. CONSTITUTIONAL GROUNDS.

The constitutional objection alleged is that the bill violates section 16 of article 3 of the Constitution of the State, to-wit: "No private or local bill which may be passed by the Legislature shall embrace more than one subject, and that shall be expressed in the title."

It is argued that the proposed act would apply to *three* railroads and would have *three* subjects instead of one covered by its enactments: "this, it is believed, would bring the act in conflict with the Constitution, which would render the entire act nugatory and deprive the Kaaterskill Railroad Company of the benefits intended to be conferred by the original act."

People v. Supervisors of Chautauqua, 43 N. Y. 17; *Harris v. People*, 59 id. 602; *Garcon v. Mook*, 42 id. 186; *People v. Briggs*, 50 id. 562; *Town of Flatbush*, 60 id. 398-407; *Application of Paul*, 94 id. 497, 506, 507.

The above cases are cited by the counsel as sustaining his position.

The counsel for the advocates of the measure, on the other hand, Alton B. Parker, Esq., argues that there is but *one* subject, and that is clearly expressed in the title, namely, the charging and collecting *rates of fare* on three railroads.

He states: "The title of this act was modeled after chapter 371, Laws 1879, entitled 'An act to amend chapter sixty-five of the Laws of eighteen hundred and seventy-eight, entitled 'An act to amend the statutes in reference to the collection of taxes in the counties of Livingston, Montgomery and Oswego' so as to make the provisions of said act apply to the counties of Ulster and Delaware.' 'The provisions of that act are extended to two counties; of this act to two railroads. The subject in one case relates to taxes, in the other to rates of fare, and each are local bills.'"

The counsel cites many acts of the Legislature in which certain measures as to taxes or the duties of town officers, etc., are applied to several towns or counties, and says the narrow interpretation sought to be adopted by the objectors would make such facts unconstitutional because more than one town is affected by the act. "The Court of Appeals in *Conner v. Mayor*, 5 N. Y. 285, says, at page 292 : 'All this embraces but one subject, to-wit, the compensation of these officers.

* * * * It cannot be said that one bill was necessary for the purpose of giving them salaries and another for disposing of the fees. *Nor was a separate bill required for each of the officers.* It might as well be said that a local tax could not be levied without as many bills as there were to be tax payers. *Many individual persons or things may be embraced within the same subject* within the meaning of that word in the clause in question.'"

In addition to the above case the counsel cites the following as sustaining his position : *People v. Wilson*, 60 N. Y. 507 ; *Burroughs v. Brinkerhoff*, 68 id. 259-265 ; *Rogers v. Stephens*, 86 id. 623 ; *Moses v. Hilton*, 15 Barb. 657 ; *Whitney v. State of New York*, 96 N. Y. 241 ; *Brewster v. Syracuse*, 19 id. 116 ; *Matter of Dept. Public Works*, 86 id. 437 ; *Mendorff v. Duryea*, 69 id. 557.

The Board is of the opinion that the bill does not "embrace more than one subject" within the constitutional meaning of the words, and that that "subject" is *the rate of fare on the three railroads mentioned.* It is also of the opinion that the bill is not within the constitutional prohibition as to its title, inasmuch as the title clearly expresses the subject-matter of the act.

MERITS OF BILL.

The *merits* of the bill will be considered : First, with reference to the Catskill Mountain road ; second, with reference to the Stony Clove and Catskill Mountain.

The Catskill Mountain railroad runs from Catskill landing on the Hudson river to Palenville, a distance of 15.73 miles. On September 30, 1884, the financial condition as reported to the Board was as follows :

Stock and Debt.

Capital stock authorized by charter.....	\$100,000 00
Capital stock subscribed.....	90,000 00
Capital stock paid in.....	89,100 00
Funded debt.....	200,000 00
Unfunded debt.....	65,256 00

Cost of Road and Equipment.

Cost of road and equipment.....	\$335,473 34
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Or at the rate of about \$21,200 per mile.

The capital stock paid in and funded debt sum up \$289,100.

In the short time given it to consider this subject the Board has not been able to make any examination as to whether the cost of road and equipment, as furnished by the company, really represents the "capital actually expended." The figure of \$21,200 per mile, however, would indicate that no considerable inflation could have taken place.

As is shown by the sworn evidence offered as to the cost of construction of the Stony Clove and Catskill Mountain railroad, hereinafter alluded to, \$21,000 per mile cash is about the least sum for which such a railroad in that locality can be built.

The results of the business of the last two years, as reported to this Board, are as follows:

Earnings.

	1883.	1884.
From passengers.....	\$30,441 44	\$19,410 06
From freight	2,611 52	2,672 62
Total earnings.....	<u>\$23,052 96</u>	<u>\$22,082 70</u>

Charges against Earnings.

	1883.	1884.
Transportation expenses.....	\$16,347 50	\$15,822 54
Interest	18,077 90	12,766 64
Total charges against earnings.....	<u>\$29,425 49</u>	<u>\$28,589 18</u>
Resulting deficiency for year.....	<u>\$6,372 53</u>	<u>\$6,506 48</u>

As stated by the counsel of the road, J. I. Werner:—

“It thus appears that the building and operating of this road is a losing business to those who invested their money—for the most part residents of Catskill.

“The principle of allowing similar roads to charge and collect ten cents fare has been established by the Legislature in the case of the Saratoga, Mount McGregor and Lake George railroad, as well as in the Kaaterskill railroad. No good or valid reason can be given why the same principle should not apply to the roads under consideration.”

It is also stated that ten cents is charged by the mountain roads in the White Mountains.

In view of the above facts, and also of the farther fact that this road is operated for the benefit of tourists during the summer season, there appear to the Board to be good and sufficient reasons why the rate of fare should be raised to the figure asked, thus permitting a reasonable profit to be made upon the investment.

The building of the road has been of great benefit to the community and the traveling public. Before its existence tourists and summer boarders were obliged to ride in stages, at large expense and great delay, to the points reached now by the railroad. In consequence of its building the summer travel has greatly increased, and the locality thriven proportionately.

At the increased rates proposed, the fares charged would be far less than by stage.

As the road does not, and probably cannot, earn operating expenses at the present rates, it will probably cease running unless the rates are increased.

It is also to be considered that the railroad is quite as much interested in the prosperity and growth of the locality as the boarding-house keepers who have opposed the bill on the ground that they feared it would work a reduction of travel.

As the road is vitally interested in encouraging travel it can safely be trusted not to charge a prohibitive price. Indeed the superintendent publicly announced at the hearing that it was the intention of the road to increase the price but slightly in case the bill should become a law, keeping very materially within the maximum allowed.

STONY CLOVE AND CATSKILL MOUNTAIN RAILROAD.

This road runs from Phoenicia, N. Y., to Hunter, N. Y., a distance of 14.30 miles.

On September 30, 1884, the financial condition, as reported to the Board, was :

Stock and Debt.

Capital stock, as authorized by charter.....	\$200,000 00
Capital stock paid in.....	100,000 00
Funded debt.....	210,000 00
Unfunded debt.....	14,388 21

Cost of Road and Equipment.

Cost of road and equipment.....	\$325,978 53
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Or at the rate of about \$22,800 per mile.

The president of the road, Mr. Coykendall, asserted under oath, at the hearing, that the stock subscribed and issued had been paid for in cash at par, as had also the bonds; that every dollar therefrom had gone into the construction of the road.

The results of the business of the last two years was as follows:

Earnings.

	1883.	1884.
From passengers.....	\$22,580 85	\$23,685 45
From freight.....	11,969 35	14,222 93
From mails.....	834 71	722 05
From express.....	620 00	633 13
Miscellaneous.....	25 08	63 26
Total earnings.....	\$36,029 94	\$39,330 82

Charges against Earnings.

	1883.	1884.
Transportation expenses.....	\$21,316 21	\$27,015 81
Interest.....	9,402 94	10,919 44
Total charges against earnings.....	\$30,719 15	\$37,935 25
Resulting surplus for year.....	\$5,310 79	\$1,395 57

It thus appears that while there were applicable for dividends from the business of 1883, \$5,310.79, or about 5.3 per cent on the capital stock, there was but \$1,395.57 from that of 1884, or 1.3 per cent on the capital stock.

In answer to the allegation of the counsel for the opponents of the bill that the decrease was due to the road having charged to "trans-

portation expenses" \$2,633 that had been expended upon betterments, and therefore chargeable to "construction account," the president put in an emphatic denial under oath. The counsel was unable to specify in what items these alleged incorrect charges were made. The Board therefore concludes the items were correctly charged; the president of the road accounts for the increased transportation charges by the fact that the railroad ran additional trains and hauled an increased number of cars on many of them, in order to connect with and send cars over the Kaaterskill railroad, which was open in 1884 but not in 1883. It also appears from the subjoined statement of monthly earnings for the year 1884 that the road was run at a net loss of from \$411.25 to \$838.91 every month in the year except five, namely, June, July, August, September, and December; the three months of July, August and September being the only ones during which any considerable profit was made.

The president of the road said he would be obliged to avail himself of the privilege exercised by other summer roads in the State, of suspending operations for eight months in the year, unless the bill under consideration became a law; that he did not believe the courts would compel this road to be run at a loss, while other roads, such as the Coney Island road, the Mount McGregor and other Catskill roads were permitted to suspend during the winter. He also stated that the road being a new one, deterioration had not yet become perceptible; but that very soon the increased renewal of ties, and repairs generally would absorb the earnings to such an extent as to leave nothing for the stockholders if the road were not permitted to charge a greater rate of fare; he also assured the Board that it was not the intention of the road to charge the maximum allowed in the bill; that indeed it would be impossible to obtain it.

The only weight to be given to the assertion or promise that the full rate allowed by the bill will not be charged is to emphasize the fact that the self-interest of a road will prohibit it from charging so high a rate as to obstruct or impede travel. The other summer roads allowed the maximum rate of ten cents are by no means able to get it, according to their reports.

The Board is of the opinion that the remarks hereinbefore made with reference to the Catskill Mountain road are in a great measure applicable to the Stony Clove road. While the latter is not in such financial distress as the former, the operating expenses will undoubtedly increase for some time to come, and it would seem but just and expedient that the road should be permitted to earn sufficient to maintain it in a proper degree of efficiency, and above all, safety. It is a dangerous road to operate by reason of the steepness of the grades. The equipment and road-bed should, therefore, be kept in the best possible condition to insure safety.

Should an unreasonable profit be made by reason of the passage of this bill, the rates could be reduced at any time under section 33 of the General Railroad Act, so the community is protected from extortion.

CONCLUSIONS AND RECOMMENDATIONS.

The Board finds that Assembly Bill 129, entitled "An act to amend an act entitled 'An act to authorize the Kaaterskill Railroad Com-

pany to charge and collect rates of fare for passengers upon its road,' passed February twenty-seven, eighteen hundred and eighty-three, and known as chapter sixty-six, by extending the provisions thereof so as to apply to the Catskill Mountain Railroad Company and the Stony Clove and Catskill Mountain Railroad Company," is constitutional in form and just in its provisions.

By the Board.

WILLIAM C. HUDSON,
Secretary.

II.

REPLY OF THE BOARD OF RAILROAD COMMISSIONERS TO THE RESOLUTION OF THE ASSEMBLY OF JANUARY 27, 1885.

STATE OF NEW YORK :

IN ASSEMBLY, }
ALBANY, *January 27, 1885.* }

Resolved, That the heads of the various State departments report to this House within fifteen days, what reports or printing, if any, ordered by the Legislature of 1884, have not yet been executed and delivered to them by the State printers.

By order,

C. A. CHICKERING,
Clerk.

STATE OF NEW YORK :

BOARD OF RAILROAD COMMISSIONERS, }
ALBANY, *February 5, 1885.* }

Hon. GEORGE Z. ERWIN, *Speaker of the Assembly.*

SIR — In pursuance of the resolution of the Assembly, directing heads of departments to report to the Assembly what reports or printing, if any, ordered by the Legislature of 1884, have not yet been executed and delivered to them by the State printer, the Board of Railroad Commissioners report that no reports or printing ordered to be delivered to it remain unexecuted or undelivered, and all such as was so ordered was delivered at a date not later than the 15th of May, 1884.

By the Board.

WILLIAM C. HUDSON,
Secretary.

III.

IN THE MATTER OF THE RESOLUTION OF THE ASSEMBLY OF THE DATE OF FEBRUARY 11, 1885, RELATIVE TO SECTION 33, CHAPTER 140, LAWS OF 1850.

March 20, 1885.

To the Honorable the Assembly of the State of New York :

On February 11, 1885, the Board of Railroad Commissioners received from your honorable body the following resolution :

STATE OF NEW YORK :

IN ASSEMBLY,
ALBANY, *February* 11, 1885. }

WHEREAS, The declared policy of the State has been, since 1850, to guarantee to railroad corporations ten per cent earnings on their capital actually expended, while at that time the rate of interest was seven per centum ; and,

WHEREAS, In 1879 the said rate of seven per centum was reduced to six per centum, while the rate of earnings on capital actually expended is still guaranteed at ten per cent ; therefore,

Resolved, That the Board of Railroad Commissioners be requested to report to the Assembly upon the advisability and expediency of reducing such guarantee of ten per cent in conformity with the reduction of interest by the State.

By order.

C. A. CHICKERING,
Clerk.

In pursuance of the requirements thereof, the Board respectfully submits the following report :

A table is herewith transmitted which has been compiled from the annual reports made to the State by steam railroads during five years past, and which shows the "net income upon capital paid in ;" "the percentage thereof on such capital ;" "the amount of dividends paid therefrom," and "the percentage of such dividends upon the capital paid in."

The results therefrom are condensed as follows :

STATEMENT showing the Net Income of all Companies, both Lessor and Lessee, owning or operating Surface Steam Railroads in New York State; the Percentage of such Net Income to the Capital Stock paid in of each Company; and the Amount and Rate of Dividends paid each year from the Net Income of that year, for the five years ending September 30, 1880, to September 30, 1884, both inclusive, as taken from the Reports rendered by the respective Companies to the State Engineer for the first three years and to the Board of Railroad Commissioners for the last two years.

NAME OF ROAD.	1880.				
	Capital stock paid in.	Net income.	Percentage of income to stock.	Dividend paid from net income.	Rate.
Adirondack.....	*\$2,728,692 55	†\$9,988 80	.0086	.....	.....
Addison & Northern Pennsylvania	.....	.....	.....	.....	.....
Albany and Susquehanna, Lessor	3,500,000 00	245,000 00	.07	\$245,000 00	.07
Albany and Vermont, Lessor	600,000 00	19,720 00	.033	18,000 00	.03
Allegany Central	.....	.....	.....	.....	.....
Albany and Susquehanna, Lessee	.....	.....	.....	.....	.....
Amsterdam, Chucta, and Northern	.....	.....	.....	.....	.....
Atlantic and Great Western	.....	.....	.....	.....	.....
Avon, Genesee and Mt. Morris, Lessor	225,000 00	13,500 00	.06	13,500 00	.06
Bath and Hammondsport	75,350 00	837 58	.0045	.....	.....
Black River and Morristown	.....	.....	.....	.....	.....
Boston and Albany	20,000,000 00	1,947,618 14	.0974	1,800,000 00	.06
Boston, Hoosac Tunnel and Western	475,000 00	136,308 15	.0764	.....	.....
Bradford, Eldred and Cuba	.....	.....	.....	.....	.....
Brooklyn, Bath and Coney Island	.....	.....	.....	.....	.....
Brooklyn, Flatbush & Coney Island	495,950 00	42,523 57	.0857	.....	.....
Brooklyn and Montauk, Lessor	.....	.....	.....	.....	.....
Brooklyn and Rockaway Beach	147,500 00	3,167 13	.0214	.....	.....
Buffalo, Bradf. & Pittsburgh, Lessor	.....	.....	.....	.....	.....
Buffalo Creek	250,000 00	25,761 48	.103	.....	.....
Buffalo Creek Transfer	.....	.....	.....	.....	.....
Buffalo Erie Basin	.....	.....	.....	.....	.....
Buffalo and Lehigh	.....	.....	.....	.....	.....
Buffalo, New York and Erie, Lessor	950,000 00	66,500 00	.07	66,500 00	.07
Buffalo, New York and Philadelphia	2,125,650 00	108,573 21	.0501	.....	.....
Buffalo, Pittsburgh and Western	.....	.....	.....	.....	.....
Buffalo and South western	943,666 66	12,374 91	.0131	.....	.....
Canal, Lessor	.....	.....	.....	.....	.....
Carth. Watert'n & Sack. Har., Lessor	.....	.....	.....	.....	.....
Catskill Mountain	.....	.....	.....	.....	.....
Cayuga and Susquehanna, Lessor	589,110 00	54,600 00	.093	54,600 00	.093
Cayuga and Susquehanna, Lessee	.....	.....	.....	.....	.....
Cazenovia, Canastota and De Ruyter	.....	.....	.....	.....	.....
Chateaugay	75,000 00	21,093 39	.188	.....	.....
Chemung, Lessor	380,000 00	22,800 00	.06	22,800 00	.06
Chemung, Lessee	.....	.....	.....	.....	.....
Cherry Val., Sharon & Alb'ny, Lessor	.....	.....	.....	.....	.....
Clayton and Theresa, Lessor	.....	.....	.....	.....	.....
Clove Branch	150,000 00	10,511 51	.07	.....	.....
Coneus Lake	.....	.....	.....	.....	.....
Connecting Terminal	.....	.....	.....	.....	.....
Cooperstown and Susquehanna Val.	806,405 00	1,088 95	.0035	.....	.....
Corning, Cowanes. & Antrim, Lessor	1,900,000 00	122,500 00	.065	122,500 00	.065
Corning, Cowanes. & Antrim, Lessee	.....	4,618 83	.0024	.....	.....

* No capital stock paid in reported. These figures are cost of construction.

† These figures are "net earnings," but as the companies, although having a funded indebtedness, report no charges against earnings for interest on same, the sum reported as given above is necessarily taken as "net income."

‡ Operated by the New York Central and Hudson River Railroad. No rental paid.

§ This road in hands of receiver. Sold on foreclosure January 6, 1880.

|| Operation, earnings, etc., all embraced in report of Albany and Susquehanna.

STATEMENT — (Continued).

NAME OF ROAD.	1880.				
	Capital stock paid in.*	Net income.	Percentage of income to stock.	Dividend paid from net income.	Rate
Delaware, Lack. & Western, Lessee.					
Dunkirk, Alleg. Val. & Pittsb. Lessor	\$1,300,000 00	\$19,500 00	.015	\$19,500 00	.015
Elmira, Jefferson & Canand. Lessor.	500,000 00				
Elmira, Jefferson & Canand. Lessee.		88,238 46	.0766		
Elmira and Williamsport, Lessor	1,000,000 00	60,000 00	.06	60,000 00	.06
Elmira and Williamsport, Lessee		27,874 20	.0279		
Elmira State Line, Lessor	90,200 00	2,044 00	.0226		
Erie and Genesee Valley, Lessor					
Erie International, Lessor.					
Flushing, North Shore & Cent., Lessor	814,925 00	37,874 79	.0463		
Fonda, Johnstown and Gloversville.	300,000 00	30,238 57	.1036		
Garnerville, Lessor.					
Geneva, Ithaca and Sayre					
Geneva and Lyons, Lessor.					
Glendale and East River, Lessor					
Glens Falls *					
Goshen and Deckertown					
Greene, Lessor	200,000 00	12,000 00	.06	12,000 00	.06
Greene, Lessee					
Greenwich and Johnsonville	117,900 00	118 22	.001		
Harlem River & Port Chester, Lessor					
Hartford and Connecticut Western.					
Herk. Newport & Poland Nar Gauge					
Ithaca, Auburn and Western					
Island.					
Kaaterskill					
Lackawanna and Pittsburgh					
Lackawanna and Susquehanna †					
Lake Champlain and Moriah	200,000 00	45,672 20	.2284	30,000 00	.15
Lake Ontario Southern					
Lake Shore and Michigan Southern.	50,000,000 00	5,664,832 60	.1133	4,010,670 00	7.06
Lebanon Springs.					
Lehigh and Hudson River.					
Lockport and Buffalo, Lessor					
Long Beach Marine					
Long Island					
Long Island City & Flushing, Lessor					
Marine	50,000 00	16,168 79	.323		
Mayville Extension, Lessor.					
Middleburgh and Schoharie.	85,000 00	287 28	.0034		
Middletown and Crawford, Lessor.	122,300 00	510 84	.0042		
Middletown, Union & W. Gap, Lessor	123,850 00	8,669 50	.07	8,669 50	.07
Middletown, Union & W. Gap, Lessee					
Montgomery and Erie, Lessor.	150,000 00	8,700 00	.058	8,250 00	.055
Newburgh, Dutchess & Connecticut					
New Jersey and New York	2,800,000 00	18,787 67	.0067		
New York, Bay Ridge & Jam., Lessor	300,000 00	21,000 00	.07	21,000 00	.07
New York and Brighton Beach					
New York and Canada, Lessor	4,000,000 00				
New York and Canada, Lessee		49,504 31	.0124		
New York Central and Hudson River	89,428,300 00	10,589,219 51	.1182	7,141,512 95	.08
New York Central, Niagara River ‡					
New York, Chicago and St. Louis					
New York City and Northern					
New York and Coney Island, Lessor	80,000 00	8,000 00	.10	8,000 00	.10
New York and Harlem River, Lessor	9,450,000 00	756,000 00	.08	756,000 00	.08
New York, Lack. & Western, Lessor §					
New York, Lake Erie and Western	83,247,000 00	1,790,620 71	.0215		
New York and Long Beach ¶					
New York, Manhattan Beach, Lessor	651,200 00	22,377 41	.0342	5,292 00	.0081
New York and New England					

* Owned by Rensselaer and Saratoga.

† This road was built and operated by Delaware and Hudson Canal Company, and its operations, earnings, etc., are in Albany and Susquehanna, lessee.

‡ Operated by New York Central and Hudson River Railroad Company.

§ Operated its own road 1882. Leased to Delaware, Lack. and Western in October, 1882.

¶ Bonds and stocks of this company purchased and owned by Long Island Company.

†† Ten per cent on \$53,350 preferred stock; eight per cent on balance

STATEMENT — (Continued).

NAME OF ROAD.	1880.				
	Capital stock paid in.	Net income.	Percentage of income to stock.	Dividend paid from net income.	Rate.
New York, New Haven and Hartford	\$15,500,000 00	\$1,584,985 58	.1009	\$1,550,000 00	.10
New York, Ontario and Western	58,819,156 23	17,507 73	.0003		
New York, Pennsylvania and Ohio	45,000,000 00	450,723 18	.01		
New York and Sea Beach					
New York, West Shore and Buffalo					
New York, Woodhaven & Rockaway					
Niagara Bridge & Can'dagua, Lessor	1,000,000 00	60,000 00	.06	60,000 00	.06
Niagara Falls Branch, Lessor					
Northern of New Jersey	1,000,000 00	23,088 79	.0231	20,000 00	.02
Nyack and Northern, Lessor					
Ogdensburgh and Lake Champlain	5,077,000 00	98,701 67	.0194	98,701 67	.0194
Olean, Bradford and Warren	150,000 00	51,217 91	.3414	36,000 00	.24
Oswego and Rome, Lessor					
Oswego and Syracuse, Lessor	1,320,400 00	118,836 00	.09	118,836 00	.09
Oswego and Syracuse, Lessee		34,385 32	.026		
Owasco River					
Port Dickinson and Chenango River					
Port Jervis and Monticello	724,276 93	5,326 48	.0073		
Poughkeepsie, Hartford and Boston					
Rensselaer and Saratoga, Lessor	6,854,100 00	548,323 00	.08	548,323 00	.08
Rensselaer and Saratoga, Lessee		95,272 41	.0139		
Rhinebeck and Connecticut					
Rochester & Genesee Valley, Lessor	555,900 00	33,312 00	.06	33,312 00	.06
Rochester and Lake Ontario	64,550 00	12,456 22	.1929		
Rochester, New York & Penn. Lessor					
Rochester and Ontario Belt					
Rochester and State Line	22,094 20	324,063 15	1.57		
Rochester and Pittsburgh					
Rome and Clinton, Lessor	345,380 00	24,150 00	.07	24,150 00	.07
Rome and Clinton, Lessee					
Rome, Watertown and Ogdensburgh	5,223,900 00	203,203 17	.0383		
Saratoga Lake					
Saratoga and Schenectady, Lessor	450,000 00	32,566 00	.072	31,500 00	.07
Saratoga and Schenectady, Lessee*					
Saratoga, Mt. McGregor & L. George					
Schenectady & Duaneburgh, Lessor					
Schenectady & Duaneburgh, Lessee*					
Schoharie Valley	100,000 00	1,953 88	.0195	1,953 88	.0195
Silver Lake					
Skaneateles	77,800 00	4,772 29	.0613	773 00	.01
Smithtown & Port Jefferson, Lessor					
Sodus Bay and Southern†					
Southern Central	1,790,224 94	15,292 84	.0082		
Southfield Branch					
Springville and Sardinia	30,087 24	6,195 65	.208		
Spuytten Duyvil & Port Morris, Lessor	999,000 00	79,120 00	.08	79,120 00	.08
Staten Island	210,000 00	50,421 98	.24	42,000 00	.20
Staten Island Rapid Transit					
Sterling Mountain					
Stony Clove and Catskill Mountain					
Suspen. Bridge & Erie Junc., Lessor					
Syracuse, Binghamton & New York	2,004,000 00	179,876 10	.0897	50,100 00	.025
Syracuse, Chenango and New York					
Syracuse, Geneva & Corning, Lessor	1,162,800 00	46,953 65	.0404		
Syracuse, Geneva & Corning, Lessee		55,669 19	.0479		
Syracuse, Ontario and New York					
Tioga, of Pennsylvania, Lessee	580,900 00	103,448 67	.178		
Tonawanda Valley and Cuba					
Troy and Bennington, Lessor	75,400 00	9,582 17	.1277	7,540 00	.10
Troy and Boston	1,609,110 00	48,833 54	.0298		
Troy and Greenbush, Lessor	274,400 00	19,208 00	.07	19,208 00	.07
Troy Union, Lessor					
Ulster and Delaware	1,152,100 00	312,038 97	.0105		

* Embraced in Rensselaer and Saratoga, Lessee.

† Ontario Southern for years 1880, 1881 and 1882.

‡ These figures are "net earnings," but as the companies, although having a funded indebtedness, report no charges against earnings for interest on same, the sum reported as given above is necessarily taken as "net income."

STATEMENT — (Continued).

NAME OF ROAD.	1880.				
	Capital stock paid in.	Net income.	Percentage of income to stock.	Dividend paid from net income.	Rate.
Union, Lessor					
Utica and Black River.....	\$1,772,000 00	\$178,783 00	.1009	\$70,832 00	.04
Utica, Chenango & Susq. Val., Lessor	4,000,000 00	240,000 00	.06	240,000 00	.06
Utica, Chenango & Susq. Val., Lessee		21,873 41	.0064		
Utica, Clinton & Binghamton, Lessor					
Utica, Clinton & Binghamton, Lessee					
Utica, Ithaca and Elmira	2,000,000 00	1,578 53	.0008		
Valley, Lessor	750,000 00	60,000 00	.08	60,000 00	.08
Valley, Lessee		107,120 91	.143		
Wallkill Valley					
Warwick Valley	340,000 00	6,739 00	.0199		
Waverly and State Line, Lessor					
Waverly and State Line, Lessee					
Wellsville, Bolivar and Eldred					
Totals	\$441,983,868 75	\$28,628,050 35	.0597	\$17,316,049 00	.068

STATEMENT — (Continued).

NAME OF ROAD.	1881.				
	Capital stock paid in.	Net income.	Percentage of income to stock.	Dividend paid from net income.	Rate.
Adirondack	*\$2,728,662 55	†\$18,263 90	.0087		
Addison and Northern Pennsylvania					
Albany and Susquehanna, Lessor	3,500,000 00	245,000 00	.07	\$245,000 00	.07
Albany and Vermont, Lessor	600,000 00	19,800 00	.033	18,000 00	.03
Allegheny Central		8,080 21	.0023		
Albany and Susquehanna, Lessee					
Amsterdam, Chucta, and Northern					
Atlantic and Great Western					
Avon, Genesee and Mt. Morris, Lessor	225,000 00	13,500 00	.06	13,500 00	.06
Bath and Hammondsport	75,350 00	2,594 84	.0344		
Black River and Morristown					
Boston and Albany	20,000,000 00	1,641,873 37	.0821	1,600,000 00	.08
Boston, Hoosac Tunnel and Western	2,578,900 00	110,961 11	.0042		
Bradford, Eldred and Cuba	175,000 00	2,377 18	.0135		
Brooklyn, Bath and Coney Island	300,000 00	1,290 73	.0042		
Brooklyn, Flatbush & Coney Island	496,150 00	23,244 49	.0465		
Brooklyn and Montauk, Lessor					
Brooklyn and Rockaway Beach					
Buffalo, Bradf. & Pittsburgh, Lessor					
Buffalo Creek	250,000 00	44,280 51	.177		
Buffalo Creek Transfer					
Buffalo Erie Basin					
Buffalo and Lehigh					
Buffalo, New York and Erie, Lessor	950,000 00	66,500 00	.07	66,500 00	.07
Buffalo, New York and Philadelphia	2,343,100 00	245,847 81	.1049		
Buffalo, Pittsburgh and Western					
Buffalo and South Western					
Canal, Lessor					
Carth., Watert'n & Sack. Har., Lessor					
Catskill Mountain					
Cayuga and Susquehanna, Lessor	589,110 00	54,600 00	.093	54,600 00	.093
Cayuga and Susquehanna, Lessee					
Cazenovia, Canastota and De Ruyter	614,000 00	3,808 26	.0062		
Chateaugay	75,000 00	8,977 85	.119		
Chemung, Lessor	380,000 00	48,879 00	.13	22,800 00	.06
Chemung, Lessee					
Cherry Val., Sharon & Albany, Lessor					
Clayton and Theresa, Lessor					
Clove Branch	150,000 00	6,044 00	.04		
Conesus Lake					
Connecting Terminal					
Cooperstown and Susquehanna Val.	808,405 00	10,023 37	.0125		
Corning, Cowanes, & Antrim, Lessor	1,900,000 00	119,000 00	.0626	119,000 00	.0626
Corning, Cowanes, & Antrim, Lessee		23,361 43	.0123		
Delaware, Lack. & Western, Lessee					
Dunkirk, Alleg. Val. & Pittsb., Lessor	1,300,000 00	19,500 00	.015	19,500 00	.015
Elmira, Jefferson & Canand., Lessor	500,000 00	25,000 00	.05	25,000 00	.05
Elmira, Jefferson & Canand., Lessee		28,808 04	.0778		
Elmira and Williamsport, Lessor	1,000,000 00	60,000 00	.06	60,000 00	.06
Elmira and Williamsport, Lessee		79,438 29	.0794		
Elmira State Line, Lessor	90,200 00	2,044 00	.0226		
Erie and Genesee Valley, Lessor					
Erie International, Lessor					
Flushing, No. Shore & Cent., Lessor					
Fonda, Johnstown and Gloversville	800,000 00	34,973 20	.1165	9,000 00	.03
Garnerville, Lessor					
Geneva, Ithaca and Sayre					
Geneva and Lyons, Lessor					
Glendale and East River, Lessor					
Glens Falls					
Goshen and Deckertown	96,190 00	5,798 89	.0603	4,809 50	.05
Greene, Lessor	200,000 00	12,000 00	.06	12,000 00	.06

* No capital paid in reported; these figures are cost of construction

† These figures are "net earnings," but as the companies, although having a funded indebtedness, report no charges against earnings for interest on same, the sum reported as given above is necessarily taken as "net income."

‡ For this and subsequent years see New York, Pennsylvania and Ohio.

§ Leased to New York, Lake Erie and Western, August 1, 1880.

¶ From and after 1880, operations, earnings, etc., embraced in the Long Island Railroad.

STATEMENT — (Continued).

NAME OF ROAD.	1881.				
	Capital stock paid in.	Net income.	Percentage of income to stock.	Dividend paid from net income.	Rate.
Greene, Lessee		\$287 97	.0013		
Greenwich and Johnsonville	\$117,900 00	14,642 49	.1248		
Harlem River & Port Chester, Lessor					
Hartford and Connecticut Western					
Herk., Newport & Poland Nar. Gauge					
Ithaca, Auburn and Western					
Island					
Kaaterskill					
Lackawanna and Pittsburgh					
Lackawanna and Susquehanna *					
Lake Champlain and Moriah	200,000 00	40,187 08	.2001	\$40,000 00	.20
Lake Ontario Southern					
Lake Shore and Michigan Southern	50,000,000 00	4,459,698 00	.0882	4,010,670 00	+.08
Lebanon Springs					
Lehigh and Hudson River					
Lockport and Buffalo, Lessor	128,400 00	10,100 00	.0799		
Long Beach Marine					
Long Island					
Long Island City & Flushing, Lessor	500,000 00	10,396 23	.0207		
Marine	50,000 00	15,429 25	.308		
Mayville Extension, Lessor					
Middleburgh and Schoharie					
Middletown and Crawford, Lessor	122,300 00	2,231 64	.028		
Middletown, Union, & W. Gap, Lessor	123,850 00	8,669 50	.07	8,669 50	.07
Middletown, Union, & W. Gap, Lessee					
Montgomery and Erie, Lessor	150,000 00	10,075 47	.067	9,000 00	.06
Newburgh, Dutchess & Connecticut					
New Jersey and New York					
New York, Bay Ridge & Jam., Lessor	300,000 00	21,000 00	.07	21,000 00	.07
New York and Brighton Beach					
New York and Canada, Lessor					
New York and Canada, Lessee					
New York Central and Hudson River	89,428,300 00	7,892,827 11	.0882	7,138,343 51	.08
New York Central, Niagara River					
New York, Chicago and St. Louis					
New York City and Northern					
New York and Coney Island, Lessor	80,000 00	8,000 00	.10	8,000 00	.10
New York and Harlem River, Lessor	2,450,000 00	756,000 00	.08	756,000 00	.08
New York, Lack. & Western, Lessor					
New York, Lake Erie and Western	86,536,900 00	1,887,417 74	.0226		
New York and Long Beach					
New York & Manhattan B'ch, Lessor					
New York and New England	20,000,000 00	215,502 99	.0107		
New York, New Haven and Hartford	15,500,000 00	1,590,881 59	.1028	1,550,000 00	.10
New York, Ontario and Western	60,113,982 84	217,429 76	.0036		
New York, Pennsylvania and Ohio	45,000,000 00	201,224 00	.004		
New York and Sea Beach					
New York, West Shore and Buffalo					
New York, Woodhaven & Rockaway					
Niagara Bridge & Can'daigua, Lessor	1,000,000 00	60,000 00	.06	60,000 00	.06
Niagara Falls Branch, Lessor					
Northern of New Jersey	1,000,000 00	35,893 10	.0359	27,500 00	.0275
Nyack and Northern, Lessor					
Ogdensburgh and Lake Champlain	3,081,700 00	20,430 44	.0066		
Olean, Bradford and Warren	150,000 00	46,935 61	.313	37,500 00	.25
Oswego and Rome, Lessor					
Oswego and Syracuse, Lessor	1,320,400 00	118,898 00	.09	118,898 00	.09
Oswego and Syracuse, Lessee		8,449 17	.064		
Owasco River					
Port Dickinson and Chenango River					
Port Jervis and Monticello					
Poughkeepsie, Hartford and Boston					
Rensselaer and Saratoga, Lessor	6,854,100 00	548,388 00	.08	548,328 00	.08
Rensselaer and Saratoga, Lessee					
Rhinebeck and Connecticut					
Rochester & Genesee Valley, Lessor	555,200 00	38,312 00	.06	33,312 00	.06

* This road was built and operated by Delaware and Hudson Canal Company, and its operations, earnings, etc., are in Albany and Susquehanna, lessee.

† Ten per cent on \$53,350 preferred stock; eight per cent on balance.

STATEMENT — (Continued).

NAME OF ROAD.	1881.				
	Capital stock paid in.	Net income.	Percentage of income to stock.	Dividend paid from Net income.	Rate.
Rochester and Lake Ontario	\$85,000 00	\$15,774 61	.243	\$3,250 00	.06
Rochester, New York & Penn., Lessor					
Rochester and Ontario Belt					
Rochester and State Line*					
Rochester and Pittsburgh					
Rome and Clinton, Lessor	345,880 00	24,164 00	.07	24,164 00	.07
Rome and Clinton, Lessee					
Rome, Watertown and Ogdensburg	5,283,900 00	54,649 11	.0108		
Saratoga Lake					
Saratoga and Schenectady, Lessor..	450,000 00	82,000 75	.0735	81,500 00	.07
Saratoga and Schenectady, Lessee..					
Saratoga, Mt. McGregor & L. George					
Schenectady & Duaneburgh, Lessor					
Schenectady & Duaneburgh, Lessee					
Schoharie Valley	100,000 00	5,000 00	.05	5,000 00	.05
Silver Lake	120,127 00	4,885 46	.04		
Skaneateles	77,800 00	1,939 87	.0249	1,546 00	.02
Smithtown & Port Jefferson, Lessor					
Sodus Bay and Southern					
Southern Central					
Southfield Branch					
Springville and Sardinia	80,087 24	1,930 65	.0641		
Spartan Duvill & Port Morris, Lessor	986,000 00	79,120 00	.08	79,120 00	.08
Staten Island	210,000 00	58,664 28	.2795	28,000 00	.1333
Staten Island Rapid Transit					
Sterling Mountain	80,000 00	1,175 57	.0147		
Stony Clove and Catskill Mountain.					
Suspen. Bridge & Erie Junc. Lessor.					
Syracuse, Binghamton & New York	2,500,000 00	440,983 58	.1763	440,236 00	.1761
Syracuse, Chenango and New York					
Syracuse, Geneva & Corning, Lessor	1,162,800 00	123,533 08	.1064		
Syracuse, Geneva & Corning, Lessee.					
Syracuse, Ontario and New York					
Tioga, of Pennsylvania, Lessee	580,900 00	113,868 47	.196		
Tonawanda Valley and Cuba					
Troy and Bennington, Lessor	150,800 00	10,735 80	.0713	9,048 00	.06
Troy and Boston					
Troy and Greenbush, Lessor	274,400 00	19,208 00	.07	19,208 00	.07
Troy Union, Lessor					
Ulaters and Delaware	1,152,100 00	77,020 26	.0661		
Union, Lessor					
Utica and Black River	1,772,000 00	102,474 95	.0579	70,830 00	.04
Utica, Chenango & Susq. Val., Lessor	4,000,000 00	240,000 00	.06	240,000 00	.06
Utica, Chenango & Susq. Val., Lessee		77,478 31	.0193		
Utica, Clinton & Binghamton, Lessor					
Utica, Clinton & Binghamton, Lessee					
Utica, Ithaca and Elmira	2,000,000 00	20,968 59	.0104		
Valley, Lessor	750,000 00	60,000 00	.08	60,000 00	.08
Valley, Lessee		127,744 66	.1703		
Walkill Valley					
Warwick Valley	340,000 00	11,604 21	.034	6,800 00	.02
Waverly and State Line, Lessor ..					
Waverly and State Line, Lessee					
Wellsville, Bolivar and Eldred					
Totals	\$455,590,404 63	\$22,765,476 29	.0496	\$17,655,673 51	.0384

* For subsequent years see Rochester and Pittsburgh.

† These figures are "net earnings," but as the companies, although having a funded indebtedness, report no charges against earnings for interest on same, the sum reported as given above is necessarily taken as "net income."

STATEMENT — (Continued).

NAME OF ROAD.	1882.				
	Capital stock paid in.	Net income.	Percentage of income to stock.	Dividend paid from net income.	Rate.
Adirondack.....	* \$2,728,692 55	†\$25,021 85	.0092		
Addison and Northern Pennsylvania					
Albany and Susquehanna, Lessor..	3,500,000 00	245,000 00	.07	\$245,000 00	.07
Albany and Vermont, Lessor.....	800,000 00	13,800 00	.033	18,000 00	.06
Allegheny Central.....	1,000,000 00	10,453 80	.0104		
Albany and Susquehanna, Lessee..		85,023 49	.0243		
Amsterdam, Chucta, and Northern					
Atlantic and Great Western.....					
Avon, Genesee and Mt. Morris, Lessor	225,000 00	13,500 00	.06	13,500 00	.06
Bath and Hammondsport.....	75,350 00	3,185 62	.042		
Black River and Morrisstown.....					
Boston and Albany.....	20,000,000 00	1,547,832 67	.0774	1,503,550 00	.0732
Bradford, Hoosac Tunnel and Western					
Bradford, Eldred and Cuba.....	480,000 00	32,150 06	.067	17,500 00	.0555
Brooklyn, Bath and Coney Island	300,000 00	3,791 83	.0126		
Brooklyn, Flatbush & Coney Island					
Brooklyn and Montauk, Lessor.....					
Brooklyn and Rockaway Beach.....					
Buffalo, Bradford & Pittsburgh, Lessor					
Buffalo Creek.....	250,000 00	38,848 42	.1554		
Buffalo Creek Transfer.....					
Buffalo Erie Basin.....					
Buffalo and Lehigh.....					
Buffalo, New York and Erie, Lessor	950,000 00	66,500 00	.07	66,500 00	.07
Buffalo, New York and Philadelphia	7,000,000 00	309,508 65	.0442		
Buffalo, Pittsburgh and Western.....	9,150,250 00	16,597 63	.0018		
Buffalo and South Western.....					
Canal, Lessor.....					
Carth., Water'n & Sack. Har., Lessor	486,593 00	3,407 48	.007		
Catskill Mountain.....	77,800 00	2,716 74	.0349		
Cayuga and Susquehanna, Lessor..	589,110 00	54,600 00	.093	54,600 00	.093
Cayuga and Susquehanna, Lessee ‡.					
Cazenovia, Canastota and De Ruyter					
Chateaugay.....	75,000 00	24,597 90	.33		
Chemung, Lessor.....	380,000 00	22,426 25	.059	22,426 25	.059
Chemung, Lessee.....		22,209 50	.058		
Cherry Val., Sharon & Albany, Lessor					
Clayton and Theresa, Lessor.....					
Clove Branch.....	150,000 00	3,279 99	.022		
Conesus Lake.....					
Connecting Terminal.....	20,000 00	2,380 57	.0116		
Cooperstown and Susquehanna Val.	308,405 00	6,242 38	.02		
Corning, Cowanes, & Antrim, Lessor.	2,000,000 00	123,300 00	.0616		
Corning, Cowanes, & Antrim, Lessee.		7,160 66	.0036		
Delaware, Lack. & Western, Lessee..	\$ 6,859,510 00	121,304 52	.0177		
Dunkirk, Alleg. Val. & Pittsb., Lessor	1,300,000 00	19,500 00	.015	19,500 00	.015
Elmira, Jefferson & Canand., Lessor.	500,000 00	25,000 00	.05	25,000 00	.05
Elmira, Jefferson & Canand., Lessee.		55,653 10	.1113		
Elmira and Williamsport, Lessor.....	1,000,000 00	60,000 00	.06	60,000 00	.06
Elmira and Williamsport, Lessee.....		95,731 70	.0957		
Elmira State Line, Lessor.....	90,200 00	2,044 00	.0223		
Erie and Genesee Valley, Lessor.....					
Erie International, Lessor.....					
Flushing, North Shore & Cent., Less'r					
Fonda, Johnstown and Gloversville.	800,000 00	38,274 75	.1109	24,000 00	.06
Garnerville, Lessor.....					
Geneva, Ithaca and Sayre.....					
Geneva and Lyons, Lessor.....					
Glendale and East River, Lessor.....					
Glens Falls.....					
Goshen and Deckertown.....	96,190 00	4,000 97	.0418	4,000 97	.0418
Greene, Lessor.....	200,000 00	12,000 00	.06	12,000 00	.06
Greene, Lessee †.....					

* No capital paid in reported; these figures are cost of construction.

† These figures are "net earnings," but as the companies, although having a funded indebtedness, report no charges against earnings for interest on same, the sum reported, as given above, is necessarily taken as "net income."

‡ This and subsequent years' earnings, etc., appear in Delaware, Lackawanna & West'n.

§ This amount is the capital of the five roads operated by the Del. Lack. and Western.

† For this and subsequent years see Delaware, Lackawanna and Western, lessee.

STATEMENT — (Continued).

NAME OF ROAD.	1882.				
	Capital stock paid in.	Net income.	Percentage of income to stock.	Dividend paid from net income.	Rate
Greenwich and Johnsonville	\$118,000 00	\$12,498 91	.106	\$7,080 00	.08
Harlem River & Port Chester, Lessor					
Hartford and Connecticut Western					
Herk., Newport & Poland Nar. Gauge.	119,820 00	8,174 58	.0687		
Ithaca, Auburn and Western					
Island					
Kaaterskill					
Lackawanna and Pittsburgh					
Lackawanna and Susquehanna					
Lake Champlain and Moriah	200,000 00	54,596 00	.273	40,000 00	.20
Lake Ontario Southern					
Lake Shore and Michigan Southern	50,000,000 00	8,241,181 02	.065	8,241,181 02	.065
Lebanon Springs					
Lehigh and Hudson River					
Lockport and Buffalo, Lessor	126,400 00	10,100 00	.0799		
Long Beach Marine					
Long Island	10,000,000 00	446,777 96	.0446		
Long Island City & Flushing, Lessor.	600,000 00	11,846 12	.0236		
Marine	50,000 00	16,581 84	.331		
Mayville Extension, Lessor					
Middleburgh & Schoharie	85,000 00	217 90	.025		
Middletown and Crawford, Lessor*.	123,300 00	11,426 31	.0934	7,000 00	.087
Middletown, Union & W.Gap, Lessor	123,850 00	8,050 25	.065	8,050 25	.065
Middletown, Union & W.Gap, Lessee					
Montgomery and Erie, Lessor	150,000 00	9,478 00	.063	9,478 00	.063
Newburgh, Dutchess & Connecticut					
New Jersey and New York	2,800,000 00	10,058 20	.0036		
New York, Bay Ridge & Jam., Lessor	800,000 00	21,000 00	.07	21,000 00	.07
New York and Brighton Beach					
New York and Canada, Lessor					
New York and Canada, Lessee					
New York Central and Hudson River	89,428,300 00	5,739,904 10	.0644	5,739,904 10	.0644
New York Central, Niagara River					
New York, Chicago and St. Louis					
New York City and Northern					
New York and Coney Island, Lessor	80,000 00	8,000 00	.10	8,000 00	.10
New York and Harlem River, Lessor	9,450,000 00	756,000 00	.08	756,000 00	.08
New York, Lack. & Western, Lessor	10,000,000 00	53,085 47	.0053		
New York, Lake Erie and Western	89,586,900 00	1,166,642 02	.014		
New York and Long Beach					
New York and Man. Beach, Lessor					
New York and New England	20,000,000 00	44,105 59	.0022		
New York, New Haven and Hartford	15,500,000 00	1,699,683 13	.109	1,550,000 00	.10
New York, Ontario and Western	60,118,982 84	188,061 28	.0031		
New York, Pennsylvania and Ohio	45,000 00	229,618 67	.005		
New York and Sea Beach					
New York, West Shore and Buffalo					
New York, Woodhaven & Rockaway	1,000,000 00	8,880 85	.009		
Niagara Bridge & Can'dagua, Lessor	1,000,000 00	60,000 00	.06	60,000 00	.06
Niagara Falls Branch, Lessor	250,000 00	17,500 00	.07	17,500 00	.07
Northern of New Jersey	1,000,000 00	32,157 65	.0322	32,157 65	.0322
Nyack and Northern, Lessor					
Opdensburgh and Lake Champlain					
Olean, Bradford and Warren					
Oswego and Rome, Lessor					
Oswego and Syracuse, Lessor	1,380,400 00	118,836 00	.09	118,836 00	.09
Oswego and Syracuse, Lessee					
Owasco River					
Port Dickinson and Chenango River					
Port Jervis and Monticello					
Poughkeepsie, Hartford and Boston					
Rensselaer and Saratoga, Lessor	6,854,100 00	548,328 00	.08	548,328 00	.08
Rensselaer and Saratoga, Lessee		71,170 71	.0104		
Rhinebeck and Connecticut					

* Operated its own road, 1880 and 1881; leased February, 1882, to New York, Lake Erie and Western.

† Leased to Long Island from May 1, 1883.

‡ Reported as leased to Buffalo, N. Y. and Phila., at annual rental of \$50.

§ For this and subsequent years see Delaware, Lackawanna and Western, lessee.

|| Sold to Hartford and Connecticut Western.

STATEMENT — (Continued).

NAME OF ROAD.	1882.				
	Capital stock paid in.	Net income.	Percentage of income to stock.	Dividend paid from net income.	Rate.
Rochester & Genesee Valley, Lessor.	\$555,200 00	\$38,312 00	.06	\$33,312 00	.08
Rochester and Lake Ontario	65,000 00	17,160 98	.264	9,750 00	.15
Rochester, N. York & Penn., Lessor*.					
Rochester and Ontario Belt					
Rochester and State Line					
Rochester and Pittsburgh					
Rome and Clinton, Lessor	345,800 00	24,164 00	.07	24,164 00	.07
Rome and Clinton, Lessee					
Rome, Watertown and Ogdensburg	5,288,900 00	148,480 00	.028		
Saratoga Lake					
Saratoga and Schoenectady, Lessor ..	450,000 00	82,458 06	.0721	81,500 00	.07
Saratoga and Schoenectady, Lessee ..					
Saratoga, Mt. McGregor & L. George	600,000 00	1,386 24	.0022		
Schenectady & Duaneburgh, Lessor					
Schenectady & Duaneburgh, Lessee					
Schoharie Valley					
Silver Lake	120,127 00	2,646 21	.022		
Skaneateles	77,800 00	1,769 74	.0229		
Smithtown & Port Jefferson, Lessor					
Sodus Bay and Southern					
Southern Central	1,790,234 94	22,747 56	.0121		
Springfield Branch	1,000 00	645 20	.6452		
Springville and Sardinia	30,087 24	6,937 23	.2351		
Spyuten Duyvil & Port Morris, Lessor	989,000 00	79,120 00	.08	79,120 00	.08
Staten Island	210,000 00	87,801 23	.4188	42,000 00	.20
Staten Island Rapid Transit					
Sterling Mountain					
Stony Clove and Catskill Mountain.	100,000 00	6,243 87	.0624		
Suspen. Bridge & Erie Junc., Lessor					
Syracuse, Binghamton & New York.	2,500,000 00	889,477 95	.1558	250,000 00	.10
Syracuse, Chenango and New York.					
Syracuse, Geneva & Corning, Lessor	1,200,000 00	84,188 33	.0724		
Syracuse, Geneva & Corning, Lessee		42,954 40	.0369		
Syracuse, Ontario and New York					
Tioga, of Pennsylvania, Lessee	580,900 00	189,660 19	.3265		
Tonawanda Valley and Cuba					
Troy and Bennington, Lessor	150,800 00	10,774 30	.0718	9,048 00	.06
Troy and Boston	1,623,110 00	30,144 65	.0181		
Troy and Greenbush, Lessor	274,400 00	19,208 00	.07	19,208 00	.07
Troy Union, Lessor					
Ulster and Delaware	1,152,100 00	114,058 16	.012		
Union, Lessor					
Utica and Black River	1,772,000 00	191,946 91	.108	88,600 00	.05
Utica, Chenango & Susq. Val. Lessor	4,000,000 00	240,000 00	.06	240,000 00	.06
Utica, Chenango & Susq. V., Lessee†					
Utica, Clinton & Binghamton, Lessor					
Utica, Clinton & Binghamton, Lessee					
Utica, Ithaca and Elmira					
Valley, Lessor	750,000 00	87,500 00	.05	87,500 00	.05
Valley, Lessee†					
Wallkill Valley					
Warwick Valleys					
Waverly and State Line, Lessor					
Waverly and State Line, Lessee					
Wellsville, Bolivar and Eldred					
Totals	\$490,652,632 57	\$19,439,940 92	.0393	\$15,114,294 24	.031

* Leased to Buffalo, New York and Philadelphia at yearly rental of \$60.

† These figures are "net earnings," but as the companies, although having a funded indebtedness, report no charges against earnings, for interest on same, the sum reported, as given above, is necessarily taken for "net income."

‡ For this and subsequent years see Delaware, Lackawanna and Western. lessee.

§ Consolidated with Lehigh and Hudson River Railroad.

STATEMENT — (Continued).

NAME OF ROAD.	1883.				
	Capital stock paid in.	Net income.	Percentage of income to stock.	Dividend paid from net income.	Rate.
Adirondack.....	\$2,600,000 00	* \$2,103 58	.0008	.....	.....
Addison and Northern Pennsylvania					
Albany and Susquehanna, Lessor..	3,500,000 00	245,000 00	.07	\$245,000 00	.07
Albany and Vermont, Lessor.	600,000 00	19,800 00	.034	18,000 00	.03
Allegheny Central.†.....					
Albany and Susquehanna, Lessee ..		160,361 81	.046	.....	.....
Amsterdam, Chucta and Northern.					
Atlantic and Great Western.....					
Avon, Genesee and Mt. Morris, Lessor	225,000 00	18,500 00	.08	18,500 00	.08
Bath and Hammondsport.....	75,350 00	648 93	.0086	.....	.....
Black River and Morristownt.....					
Boston and Albany.....	20,000,000 00	1,643,071 81	.0821	1,407,100 00	.0708
Boston, Hoosac Tunnel and Western					
Bradford, Eldred and Cuba.....					
Brooklyn, Bath and Coney Island.	300,000 00	1,578 72	.0052	.....	.....
Brooklyn, Flatbush & Coney Island.					
Brooklyn and Montauk, Lessor.....					
Brooklyn and Rockaway Beach....	147,500 00	1,329 30	.009	.....	.....
Buffalo, Bradf. & Pittsburgh, Lessor					
Buffalo Creek.....	250,000 00	9,859 59	.0394	.....	.....
Buffalo Creek Transfer.....					
Buffalo Erie Basin.....					
Buffalo and Lehigh.....					
Buffalo, New York and Erie, Lessor	950,000 00	66,500 00	.07	66,500 00	.07
Buffalo, New York and Philadelphia	20,319,069 47	184,194 79	.009	.....	.....
Buffalo, Pittsburgh and Western§....					
Buffalo and South Western.....					
Canal, Lessor.....					
Carth., Watert'n & Saok. Har., Lessor					
Catskill Mountain.....					
Cayuga and Susquehanna, Lessor...	588,110 00	54,364 55	.092	53,019 90	.09
Cayuga and Susquehanna, Lessee....					
Cazenovia, Canastota and De Ruyter					
Chateaugay.....					
Chemung, Lessor.....	380,000 00	33,427 00	.089	32,800 00	.08
Chemung, Lessee.....		22,868 11	.06	.....	.....
Cherry Val., Sharon & Albany, Lessor					
Clayton and Theresa, Lessor.....					
Clove Branch.....					
Coneus Lake.....					
Connecting Terminal.....	20,000 00	5,502 05	.275	.....	.....
Cooperstown and Susquehanna Val.					
Corning, Cowanes. & Antrim, Lessor	2,000,000 00	143,750 00	.0719	143,750 00	.0719
Corning, Cowanes. & Antrim, Lessee					
Delaware, Lack. & Western, Lessee....	116,859,510 00	121,735 42	.0072	.....	.....
Dunkirk, Alleg. Val. & Pittab. Lessor	1,300,000 00	19,500 00	.015	19,500 00	.015
Elmira, Jefferson & Canand. Lessor.	500,000 00	25,000 00	.05	25,000 00	.05
Elmira, Jefferson & Canand. Lessee.		52,772 65	.1059	.....	.....
Elmira and Williamsport, Lessor...	1,000,000 00	60,000 00	.06	60,000 00	.06
Elmira and Williamsport, Lessee....		126,917 82	.1389	.....	.....
Elmira State Line, Lessor.....	90,200 00	2,044 00	.0236	.....	.....
Erie and Genesee Valley, Lessor.....					
Erie International, Lessor.....					
Flushing, Nor. Shore & Cent., Lessor					
Fonda, Johnstown and Gloversville.	300,000 00	30,915 44	.103	28,500 00	.096
Garnerville, Lessor.....					
Geneva, Ithaca and Sayre.....	1,675,000 00	11,836 56	.0071	.....	.....
Geneva and Lyons, Lessor.....					
Glendale and East River, Lessor....					
Glens Falls.....					

* These figures are "net earnings," but as the companies, although having a funded indebtedness, report no charges against earnings for interest on same, the sum reported as given above is necessarily taken as "net income."

† Merged in Lackawanna and Pittsburgh.

‡ Consolidated with Utica and Black River, August 8, 1883.

§ Consolidated with Buffalo, New York and Philadelphia, February 14, 1883.

| This amount is the capital of the six roads operated by the Delaware, Lackawanna and Western.

STATEMENT — (Continued).

NAME OF ROAD.	1883.				
	Capital stock paid in.	Net income.	Percentage of income to stock.	Dividend paid from net income.	Rate.
Goshen and Deckertown.....	\$96,190 00	\$3,974 79	.0412	\$3,974 79	.0412
Greene, Lessor	200,000 00	12,000 00	.06	12,000 00	.06
Greene, Lessee					
Greenwich and Johnsonville.....	118,000 00	5,309 45	.0449	5,309 45	.0449
Harlem River & Port Chester, Lessor					
Hartford and Connecticut Western.	2,491,100 00	47,195 86	.0189	87,366 50	.015
Herk., Newport & Poland Nar. Gauge	119,820 00	11,229 28	.094		
Ithaca, Auburn and Western Island					
Kaaterskill	100,000 00	5,435 49	.0543		
Lackawanna and Pittsburgh					
Lackawanna and Susquehanna.....					
Lake Champlain and Moriah.....	200,000 00	42,066 99	.2103	40,000 00	.29
Lake Ontario Southern					
Lake Shore and Michigan Southern.	50,000,000 00	4,479,314 89	.0896	4,010,670 00	*.08
Lebanon Springs					
Lehigh and Hudson River					
Lockport and Buffalo, Lessor.....	127,000 00	10,100 00	.0794		
Long Beach Marine					
Long Island.	10,000,000 00	509,749 19	.0509	400,000 00	.04
Long Island City & Flushing, Lessor	500,000 00	87,635 41	.0752		
Marine	50,000 00	17,835 70	.3566		
Mayville Extension, Lessor.....					
Middleburgh and Schoharie	85,000 00	592 89	.062		
Middletown and Crawford, Lessor..	122,300 00	7,943 00	.0649	7,943 00	.0649
Middletown, Union & W. Gap, Lessor	149,850 00	6,328 67	.051	6,328 07	.051
Middletown, Union & W. Gap, Lessee					
Montgomery & Erie, Lessor.....	150,000 00	9,750 00	.065	9,750 00	.065
Newburgh, Dutchess & Connecticut.					
New Jersey and New York	2,800,000 00	2,058 47	.0007		
New York, Bay Ridge & Jam., Lessor	300,000 00	21,000 00	.07	21,000 00	.07
New York and Brighton Beach.....					
New York and Canada, Lessor.....					
New York and Canada, Lessee					
New York Central and Hudson River	89,428,300 00	7,337,155 88	.068	7,148,131 88	.06
New York Central, Niagara River					
New York, Chicago and St. Louis ..	2,990,000 00	74,788 03	.0029		
New York City and Northern.....					
New York and Coney Island, Lessor	80,000 00	8,000 00	.10	8,000 00	.10
New York and Harlem River, Lessor	9,450,000 00	756,000 00	.08	756,000 00	.08
New York, Lack. & Western, Lessor	10,000,000 00	500,000 00	.05	500,000 00	.05
New York, Lake Erie and Western..	86,536,900 00	1,265,484 98	.0152		
New York and Long Beach.....					
New York and Man. Beach, Lessor	750,000 00	20,318 55	.027	17,500 00	.023
New York and New England					
New York, New Haven and Hartford	15,500,000 00	1,583,186 26	.021	1,550,000 00	.10
New York, Ontario and Western.....	60,113,982 84	159,701 37	.0026		
New York, Pennsylvania and Ohio..	45,000,000 00	41,702 01	.009		
New York and Sea Beach.....	500,000 00	9,831 99	.0197		
New York, West Shore and Buffalo.					
New York, Woodhaven & Rockaway	1,000,000 00	2,178 74	.0022		
Niagara Bridge & Can. daigua, Lessor	1,000,000 00	60,000 00	.06	60,000 00	.06
Niagara Falls Branch, Lessor	250,000 00	17,500 00	.07	17,500 00	.07
Northern of New Jersey	1,000,000 00	53,924 32	.0539	45,000 00	.045
Nyack and Northern, Lessor					
Ogdensburgh and Lake Champlain.	3,077,000 00	9,634 55	.003		
Olean, Bradford and Warren					
Oswego and Rome, Lessor.....					
Oswego and Syracuse, Lessor.....	1,320,400 00	118,836 00	.09	118,836 00	.09
Oswego and Syracuse, Lessee					
Owasco River					
Port Dickinson and Chenango River,					
Pert Jervis and Monticello.....	724,276 73	2,844 65	.0039		
Poughkeepsie, Hartford and Boston	850,000 00	2,482 66	.0029		
Rensselaer and Saratoga, Lessor..	6,854,100 00	548,328 00	.08	548,328 00	.08

* Ten per cent on \$53,350 preferred stock; eight per cent on balance.

† These figures are "net earnings," but as the companies, although having a funded indebtedness, report no charges against earnings for interest on same, the sum reported as given above is necessarily taken as "net income."

STATEMENT — (Continued).

NAME OF ROAD.	1883.				
	Capital stock paid in.	Net income.	Percentage of income to stock.	Dividend paid from net income.	Rate.
Rensselaer and Saratoga, Lessee....					
Rhinebeck and Connecticut.....					
Rochester & Genesee Valley, Lessor	\$555,200 00	\$38,312 00	.08	\$38,312 00	.06
Rochester and Lake Ontario.....	65,000 00	16,286 00	.26	6,500 00	.10
Rochester, New York & Penn., Lessor*					
Rochester and Ontario Belt.....	5,000 00	11,046 85	.20		
Rochester and State Line.....					
Rochester and Pittsburgh.....					
Rome and Clinton, Lessor.....	345,360 00	24,171 00	.07	24,171 00	.07
Rome and Clinton, Lessee.....					
Rome, Watertown and Ogdensburg					
Saratoga Lake.....					
Saratoga and Schenectady, Lessor..	450,000 00	32,819 00	.072	31,500 00	.07
Saratoga and Schenectady, Lessee..					
Saratoga, Mt. McGregor & L. George					
Schenectady & Duaneburgh, Lessor					
Schenectady & Duaneburgh, Lessee					
Schoharie Valley.....					
Silver Lake.....					
Skaneateles.....	77,800 00	2,357 30	.0803	1,546 00	.02
Smithtown & Port Jefferson, Lessor					
Sodus Bay and Southern.....	500,000 00	8,723 22	.0174		
Southern Central.....	1,790,234 94	72,613 94	.0428		
Southfield Branch.....					
Springville and Sardinia.....	30,087 24	4,523 96	.1504		
Spuyten Duyvil & Port Morris, Lessor	989,000 00	79,120 01	.08	79,120 00	.08
Staten Island.....	210,000 00	55,900 89	.2682	42,000 00	.20
Staten Island Rapid Transit.....					
Sterling Mountain.....	80,000 00	6,574 58	.0822		
Stony Clove and Catskill Mountain.	100,000 00	5,310 79	.0531		
Suspen. Bridge & Erie Junc., Lessor.					
Syracuse, Binghamton & New York.	2,500,000 00	310,024 91	.124	225,000 00	.09
Syracuse, Chenango and New York.					
Syracuse, Geneva & Corning, Lessor	1,200,000 00	103,266 10	.0831		
Syracuse, Geneva & Corning, Lessee		82,485 59	.0709		
Syracuse, Ontario and New York.....					
Tioga, of Pennsylvania, Lessee.....	580,900 00	182,540 48	.3142		
Tonawanda Valley and Cuba.....					
Troy and Bennington, Lessor.....	150,800 00	10,906 00	.0719	9,048 00	.06
Troy and Boston.....					
Troy and Greenbush, Lessor.....	274,400 00	19,208 00	.07	19,208 00	.07
Troy Union, Lessor.....					
Ulster and Delaware.....	1,152,100 00	112,784 09	.001		
Union, Lessor.....					
Utica and Black River.....	1,772,000 00	135,782 55	.0761	124,040 00	.07
Utica, Chenango & Susq. Val., Lessor	4,000,000 00	240,000 00	.06	240,000 00	.06
Utica, Chenango & Susq. Val., Lessee					
Utica, Clinton & Binghamton, Lessor					
Utica, Clinton & Binghamton, Lessee					
Utica, Ithaca and Elmira.....					
Valley, Lessor.....	750,000 00	37,500 00	.05	37,500 00	.05
Valley, Lessee.....					
Wallkill Valley.....	330,000 00	4,198 30	.0127		
Warwick Valley.....					
Waverly and State Line, Lessor...					
Waverly and State Line, Lessee.....					
Wellsville, Bolivar and Eldred.....					
Totals.....	\$473,768,831 22	\$22,261,065 58	.0464	\$18,299,253 59	.0382

* Leased to Lackawanna and Pittsburgh. No rental named.

+ These figures are "net earnings," but as the companies, although having a funded indebtedness, report no charges against earnings for interest on same, the sum reported as given above is necessarily taken as "net income."

STATEMENT — (Continued).

NAME OF ROAD.	1884.				
	Capital stock paid in.	Net income.	Percentage of income to stock.	Dividend paid from net income.	Rate.
Adirondack	\$2,600,000 00	\$572 71	.0002		..
Addison and Northern Pennsylvania					..
Albany and Susquehanna, Lessor	3,500,000 00	245,000 00	.07	\$245,000 00	.07
Albany and Vermont, Lessor	600,000 00	19,644 60	.033	18,000 00	.03
Allegheny Central					..
Albany and Susquehanna, Lessee					..
Amsterdam, Chucta, and Northern					..
Atlantic and Great Western					..
Avon, Genesee and Mt. Morris, Lessor	225,000 00	13,500 00	.06	13,500 00	.06
Bath and Hammondsport	75,350 00	61 38	.0008		..
Black River and Morristown					..
Boston and Albany	20,000,000 00	1,624,936 38	.0812	1,547,804 00	.0774
Boston, Hoosac Tunnel and Western	3,551,010 00	*25,830 95	.0073		..
Bradford, Eldred and Cuba					..
Brooklyn, Bath and Coney Island					..
Brooklyn, Flatbush & Coney Island					..
Brooklyn and Montauk, Lessor					..
Brooklyn and Rockaway Beach	147,500 00	6,613 36	.045		..
Buffalo, Bradf. & Pittsburgh, Lessor					..
Buffalo Creek	250,000 00	13,795 88	.0552		..
Buffalo Creek Transfer					..
Buffalo Erie Basin					..
Buffalo and Lehigh					..
Buffalo, New York and Erie, Lessor	960,000 00	66,500 00	.07	66,500 00	.07
Buffalo, New York and Philadelphia					..
Buffalo, Pittsburgh and Western					..
Buffalo and South Western	943,666 66	38,028 34	.035	33,028 34	.035
Canal, Lessor					..
Carth., Watert'n & Sack. Har., Lessor					..
Catskill Mountain					..
Cayuga and Susquehanna, Lessor	589,110 00	54,600 00	.093	54,600 00	.093
Cayuga and Susquehanna, Lessee					..
Cazenovia, Canastota & DeRuyter &					..
Chateaugay	75,000 00	41,779 93	.557		..
Chemung, Lessor	380,000 00	22,930 00	.0603	22,800 00	.06
Chemung, Lessee		4,239 69	.0112		..
Cherry Val., Sharon & Albany, Lessor					..
Clayton and Theresa, Lessor					..
Clove Branch					..
Conesus Lake					..
Connecting Terminal					..
Copperstown and Susquehanna Val.	308,405 00	2,112 46	.068		..
Corning, Cowanes. & Antrim, Lessor	2,000,000 00	150,000 00	.075	150,000 00	.075
Corning, Cowanes. & Antrim, Lessee		21,757 56	.0108		..
Delaware, Lack. & Western, Lessee	\$16 858,510 00	365,167 72	.0216		..
Dunkirk, Alleg. Val. & Pittsb., Lessor	1,300,000 00	19,500 00	.015	19,500 00	.015
Elmira, Jefferson & Canand., Lessor	500,000 00	30,000 00	.06	30,000 00	.06
Elmira, Jefferson & Canand., Lessee		4,282 07	.0086		..
Elmira and Williamsport, Lessor	1,000,000 00	60,000 00	.06	60,000 00	.06
Elmira and Williamsport, Lessee		52,178 27	.0522		..
Elmira State Line, Lessor	90,200 00	1,550 00	.0171		..
Erie and Genesee Valley, Lessor					..
Erie International, Lessor					..
Flushing, North Shore & Cent., Lessor					..
Fonda, Johnstown and Gloversville	300,000 00	32,219 00	.107	28,500 00	.095
Garnerville, Lessor					..
Geneva, Ithaca and Sayre					..
Geneva and Lyons, Lessor					..
Glendale and East River, Lessor					..
Glens Falls					..
Goshen and Deckertown	98,190 00	8,847 60	.04	8,847 60	.04
Greene, Lessor	200,000 00	12,000 00	.06	12,000 00	.06
Greene, Lessee					..

* These figures are "net earnings," but as the companies, although having a funded indebtedness, report no charges against earnings for interest on same, the sum reported, as given above, is necessarily taken as "net income."

† Merged in Elmira, Cortland and Northern.

‡ Merged in Elmira, Cortland and Northern, March 15, 1884.

§ This amount is the capital of the six roads operated by the Del., Lack. and Western.

STATEMENT — (Continued).

NAME OF ROAD.	1884				
	Capital stock paid in.	Net income.	Percentage of income to stock.	Dividend paid from net income	Rate
Greenwich and Johnsonville	\$118,000 00	\$12,539 70	.1062	.....	.....
Harlem River & Port Chester, Lessor	.....	.....	.....	.....	.....
Hartford and Connecticut Western	.....	.....	.....	.....	.....
Herk., Newport & Poland Nar. Gauge	119,820 00	7,977 83	.0669	.....	.....
Ithaca, Auburn and Western *	.....	.....	.....	.....	.....
Island .....	.....	.....	.....	.....	.....
Kaaterskill	100,000 00	6,707 40	.0671	.....	.....
Lackawanna and Pittsburgh .....	.....	.....	.....	.....	.....
Lackawanna and Susquehanna .....	.....	.....	.....	.....	.....
Lake Champlain and Moriah	200,000 00	40,100 63	.2005	\$26,000 00	.13
Lake Ontario Southern .....	.....	.....	.....	.....	.....
Lake Shore and Michigan Southern	50,000,000 00	2,512,210 97	.0502	2,512,210 97	.0502
Lebanon Springs .....	.....	.....	.....	.....	.....
Lehigh and Hudson River .....	.....	.....	.....	.....	.....
Lockport and Buffalo, Lessor	127,000 00	10,100 00	.0794	.....	.....
Long Beach Marine .....	.....	.....	.....	.....	.....
Long Island	10,000,000 00	418,152 32	.0418	400,000 00	.04
Long Island City & Flushing, Lessor	500,000 00	38,176 78	.0763	.....	.....
Marine	60,000 00	17,866 10	.2973	.....	.....
Mayville Extension, Lessor .....	.....	.....	.....	.....	.....
Middleburgh and Schoharie .....	.....	.....	.....	.....	.....
Middletown and Crawford, Lessor	123,300 00	6,110 00	.05	6,110 00	.05
Middletown, Union & W. Gap, Lessor	.....	.....	.....	.....	.....
Middletown, Union & W. Gap, Lessee	.....	.....	.....	.....	.....
Montgomery and Erie, Lessor	150,000 00	4,500 00	.03	4,500 00	.03
Newburgh, Dutchess & Connecticut	.....	.....	.....	.....	.....
New Jersey and New York .....	.....	.....	.....	.....	.....
New York, Bay Ridge & Jam., Lessor	300,000 00	21,000 00	.07	21,000 00	.07
New York and Brighton Beach .....	.....	.....	.....	.....	.....
New York and Canada, Lessor .....	.....	.....	.....	.....	.....
New York and Canada, Lessee .....	.....	.....	.....	.....	.....
New York Central and Hudson River	89,428,300 00	4,688,780 29	.0522	4,688,780 29	.0522
New York Central, Niagara River .....	.....	.....	.....	.....	.....
New York, Chicago and St. Louis .....	.....	.....	.....	.....	.....
New York City and Northern .....	.....	.....	.....	.....	.....
New York and Coney Island, Lessor	80,000 00	8,000 00	.10	8,000 00	.10
New York and Harlem River, Lessor	9,450,000 00	756,000 00	.08	756,000 00	.08
New York, Lack. & Western, Lessor	10,000,000 00	500,000 00	.05	500,000 00	.05
New York, Lake Erie and Western .....	.....	.....	.....	.....	.....
New York and Long Beach .....	.....	.....	.....	.....	.....
New York & Manhattan B'ch Lessor	800,000 00	23,539 91	.0282	21,000 00	.0282
New York and New England .....	.....	.....	.....	.....	.....
New York, New Haven and Hartford	15,500,000 00	1,559,171 32	.1008	1,550,000 00	.10
New York, Ontario and Western	60,113,982 84	19,743 16	.0003	.....	.....
New York, Pennsylvania and Ohio	44,999,350 00	175,248 42	.0038	.....	.....
New York and Sea Beach	500,000 00	59,463 94	.1189	.....	.....
New York, West Shore and Buffalo .....	.....	.....	.....	.....	.....
New York, Woodhaven & Rockaway .....	.....	.....	.....	.....	.....
Niagara Bridge & Can'dagua, Lessor	1,000,000 00	60,000 00	.06	60,000 00	.06
Niagara Falls Branch, Lessor	250,000 00	17,500 00	.07	17,500 00	.07
Northern of New Jersey	1,000,000 00	44,894 07	.0409	35,000 00	.035
Nyack and Northern, Lessor .....	.....	.....	.....	.....	.....
Ogdensburg and Lake Champlain	3,077,500 00	7,728 83	.0021	.....	.....
Olean, Bradford and Warren .....	.....	.....	.....	.....	.....
Oswego and Rome, Lessor .....	.....	.....	.....	.....	.....
Oswego and Syracuse, Lessor	1,330,400 00	118,836 00	.09	118,836 00	.09
Oswego and Syracuse, Lessee .....	.....	.....	.....	.....	.....
Owasco River	30,000 00	5,629 60	.121	.....	.....
Port Dickinson and Chenango River .....	.....	.....	.....	.....	.....
Port Jervis and Monticello .....	.....	.....	.....	.....	.....
Poughkeepsie, Hartford and Boston	850,000 00	151 20	.0002	.....	.....
Rensselaer and Saratoga, Lessor	6,854,100 00	548,328 00	.08	548,328 00	.08
Rensselaer and Saratoga, Lessee .....	.....	.....	.....	.....	.....
Rhinebeck and Connecticut .....	.....	.....	.....	.....	.....
Rochester & Genesee Valley, Lessor	555,200 00	33,312 00	.06	33,312 00	.06
Rochester and Lake Ontario	65,000 00	11,524 06	.1773	11,524 06	.1773
Rochester, New York & Penn., Lessor	.....	.....	.....	.....	.....
Rochester and Ontario Belt	5,000 00	207 65	.04	.....	.....

* Leased to Southern Central.

STATEMENT — (Continued).

NAME OF ROAD.	1884.				
	Capital stock paid in.	Net income.	Percentage of income to stock.	Dividend paid from net income.	Rate.
Rochester and State Line					
Rochester and Pittsburgh					
Rome and Clinton, Lessor	\$345,360 00	\$24,171 00	.07	\$24,171 00	.07
Rome and Clinton, Lessee *					
Rome, Watertown and Ogdensburg	5,238,900 00	26,684 85	.005		
Saratoga Lake	282,900 00	1,106 70	.004		
Saratoga and Schenectady, Lessor	450,000 00	34,597 64	.077	31,500 00	.07
Saratoga and Schenectady, Lessee					
Saratoga, Mt. McGregor & L. George					
Schenectady & Duaneburgh, Lessor					
Schenectady & Duaneburgh, Lessee					
Schoharie Valley					
Silver Lake					
Skaneateles	77,800 00	2,851 26	.0307	1,570 00	.02
Smithtown & Port Jefferson, Lessor					
Sodus Bay and Southern					
Southern Central	1,790,574 94	269 94	.00015		
Southfield Branch					
Springville and Sardinia					
Spytten Duyvil & Port Morris, Lessor	989,000 00	79,120 00	.08	79,120 00	.08
Staten Island	310,000 00	29,118 29	.1386	28,000 00	.1233
Staten Island Rapid Transit	500,000 00	33,753 71	.0775		
Sterling Mountain	80,000 00	10,124 09	.1284		
Stony Clove and Catskill Mountain	100,000 00	1,395 57	.0139		
Suspen. Bridge & Erie Junc., Lessor					
Syracuse, Binghamton & New York	2,500,000 00	202,885 10	.0809	200,000 00	.08
Syracuse, Chenango & New York †					
Syracuse, Geneva & Corning, Lessor	1,200,000 00	60,000 00	.0516		
Syracuse, Geneva & Corning, Lessee					
Syracuse, Ontario and New York					
Tioga, of Pennsylvania, Lessee	580,900 00	65,236 40	.1124		
Tonawanda Valley and Cuba					
Troy and Bennington, Lessor	150,800 00	11,333 54	.0751	9,048 00	.06
Troy and Boston					
Troy and Greenbush, Lessor	274,400 00	19,206 00	.07	19,206 00	.07
Troy Union, Lessor					
Ulster and Delaware	1,250,000 00	137,731 11	.0802		
Union, Lessor					
Utica and Black River	2,047,000 00	72,292 79	.0353	72,292 79	.0353
Utica, Chenango & Susq. Val., Lessor	4,000,000 00	240,000 00	.06	240,000 00	.06
Utica, Chenango & Susq. Val., Lessee					
Utica, Clinton & Binghamton, Lessor					
Utica, Clinton & Binghamton, Lessee	849,285 00	83,467 60	.098		
Utica, Ithaca and Elmira					
Valley, Lessor	750,000 00	37,500 00	.05	37,500 00	.05
Valley, Lessee					
Wallkill Valley					
Warwick Valley					
Waverly and State Line, Lessor					
Waverly and State Line, Lessee					
Wellsville, Bolivar and Eldred					
Totals	\$371,069,304 44	\$15,643,075 73	.0417	\$14,345,561 05	.038

* See Utica, Clinton and Binghamton, lessee.

† Changed to Syracuse, Ontario and New York.

‡ These figures are "net earnings," but as the companies, although having a funded indebtedness, report no charges against earnings for interest on same, the sum reported, as given above, is necessarily taken as "net income."

§ Earnings on Rome and Clinton railroad by lessee included in these figures.

RECAPITULATION OF PRECEDING TABLE.

Companies which report net income and dividends paid.

	1880.	1881.	1882.	1883.	1884.
Number of roads, whether operated by company owning them or leased to others					
Amount of capital paid in	76	74	83	83	77
Amount of net income	\$141,983,868 75	\$455,590,404 63	\$490,652,662 57	\$478,783,331 22	\$371,639,804 44
Percentage of net income to capital paid in	20,629,050 35 .0597	22,765,476 30 .0496	19,439,940 92 .0393	22,211,065 58 .0454	15,643,075 73 .0417
Average percentage, etc., for five years, .0473.					
Number of roads paying dividends from out net income	40	43	42	47	45
Amount of net income applied to payment of dividends	\$17,316,040 00	\$17,635,673 51	\$15,114,204 24	\$18,299,252 59	\$14,345,561 05
Rate per cent of dividends	039	.0384	.031	.0382	.038
Average percentage, etc., for five years, .0369.					

Companies reporting as having no net earnings and therefore no dividends.

	1880.	1881.	1882.	1883.	1884.
Number of roads					
Capital stock paid in	79	78	68	66	75
	\$71,562,119 16	\$53,417,136 77	\$129,750,949 10	\$160,385,486 83	\$272,772,828 70

In section 33 of the General Railroad Act of 1850, as amended in 1863, it is provided as follows :

"§ 33. The Legislature may, when any such railroad shall be opened for use, from time to time alter or reduce the rate of freight, fare or other profits upon such roads ; but the same shall not, without the consent of the corporation, be so reduced as to produce with said profits less than ten per centum per annum on the capital actually expended ; nor unless, on an examination of the amounts received and expended, to be made by the "Board of Railroad Commissioners," they shall ascertain the net income derived by the company from all sources for the year then last past shall have exceeded an annual income of ten per cent upon the capital of the corporation actually expended."

As stated in the resolution of your honorable body "it has been the declared policy of the State to guarantee to railroad corporations ten per cent upon their capital actually expended," in so far at least as to promise not to reduce their fares and freights until their earnings should reach that amount. Under the invitation and promise contained in the section quoted, capital in vast amounts has constructed railroads in every direction over our State, which has aided largely in the increase of its wealth and the development of its industries.

The power of the State to reduce the net income of railroads under the Constitution is not presented in this inquiry, and may, therefore, be assumed for the purposes of the same.

It may be laid down as a general rule, however, that it would be a breach of good faith to so reduce the rate of existing railroads, whose investments have been made under the promise given in section 33.

When the reduction of the rate of interest was made from seven to six per cent, it had no application whatever to existing loans, contracts and obligations which continued to bear the higher rate, at least until their maturity. Analogy would, therefore, confine the effect of the proposed reduction to railroads hereafter organized.

As a practical question, the proposed reduction at this time could have but little, if any, effect upon the fares and freight rates of existing railroads, and would probably serve as a decided check upon the investment of capital in further railroad construction.

The tables herewith submitted show that during five years past, some of them years of prosperity, there were from sixty-six to seventy-nine railroad corporations in operation with paid-in capital ranging from \$58,417,136.77 to \$272,772,326.70, that have had no net income and have paid no dividends.

Upon the other roads, from seventy-four to eighty-three in number, the average rate earned during the same five years upon the capital paid in, has been 4.73 per cent, and the average of dividends paid 3.10 per cent.

Further analysis of this table shows that from forty to fifty per cent of the foregoing roads pay dividends because they were advantageously leased in prosperous times, and not because of their net earnings from operation. While it is true that the capital paid in has been, and is reported by some roads at figures in excess of the capital actually expended, yet an assumption of that kind as to all roads would work

great injustice to many whose capital has not been increased or reported beyond the honest and actual amount expended. Indeed, there are some cases where the capital paid in is reported at less than the amount that has gone into construction from capital paid in and earnings.

Making a large allowance, therefore, for the wrongful increase of capital stock issued beyond the capital actually expended, it will be seen that railroad investments do not pay ten or even six per cent as a rule, and hence, that until railroad earnings produce larger profits than at present no practical good would result from changing the statute.

The elements of uncertainty surrounding railroad investments are many, and for this among other reasons, it seems to be a wise and just policy to keep the statute as it has stood since 1850.

Six per cent interest is permitted by law to be received, when the principal and interest are secured beyond all uncertainty of loss.

A railroad is always an experiment, promising no certain return. If after surviving its preliminary struggles, more desperate now than formerly, it achieves success and pays, new rivals can enter its location and either ruin it or compel a struggle financially injurious to both. A railroad thus crippled is nearly worthless to its owners. No other species of property is so worthless, considering its cost, as a railroad that does not pay something. It is very expensive property to care for and maintain in idleness, and it cannot be moved from its fixed location.

Towards those, therefore, who assume such risks of loss, it does not seem unreasonable to fix the limit of possible return at ten per cent. If any guarantee of an absolute return in profit were given by the State, as is often done abroad, or if such return were assured from the nature of the enterprise, there would be cogency in arguing that in view of the present low value of money, railroads ought to be satisfied with a lower rate of return than ten per cent.

Railroads are now sharing in the business depression universal throughout the country, as shown by their decreased earnings, and a change in the statute, as proposed, would serve as a menace, without, as we have shown, accomplishing any general beneficial result.

Again, railroads earn their money as common carriers, and the reason for limiting the amount of their net income to ten per cent was for the purpose of preventing excessive fares and freight rates.

The present limitation seems generally quite sufficient to accomplish the design of the statute.

Comparatively speaking fares and freight rates are as low in this State as can be found anywhere. Indeed there is reason to believe that upon some roads they are even lower than the cost of service. The tendency has been and is downward, although the statute has stood unchanged.

The evils in railroad management, as found by the Board, are usually insufficient improvements and accommodations; unjust discrimination, too high charges for short as compared with longer distances, etc.

The right and duty of the State to correct such wrongs as these are recognized as clear under the statute as it stands, and hence in this respect there is no need for a change.

For the reasons stated it is not, in the judgment of the Board, advisable, at present at least, to change the provisions of section 33 of the general act.

JOHN D. KERNAN,
WILLIAM E. ROGERS,
Commissioners.

Attest :

WILLIAM C. HUDSON,
Secretary.

OPINION OF COMMISSIONER O'DONNELL.

To the Honorable the Legislature of the State of New York :

In answer to the resolution of your honorable body, I beg most respectfully to answer, that the resolution assumes that the declared policy of the State has been since 1850 to guarantee to railroad corporations ten per cent earnings on their capital actually expended; second, that this so-called guarantee was based upon the legal rate of interest which up to 1879 was seven per cent, the guarantee being three per cent more than the legal rate; third, the question is raised as to the advisability and expediency of reducing such guarantee of ten per cent in conformity with the reduction of interest by the State.

In discussing the question as to the declared policy of the State to guarantee ten per cent interest to railroad corporations, it will be necessary to consider briefly the history of the railroads of the State.

The first railroad act passed by the Legislature was to incorporate the Mohawk and Hudson Railroad Company, running from Albany to Schenectady, seventeen miles, April 17, 1826. The road was opened in 1831. Section 12 of the act reads :

"It shall be lawful for the company hereby incorporated, from time to time, to fix, regulate and receive the tolls and charges by them to be received for transportation of property or persons. * * * Provided that at no time during the existence of this corporation the tolls and charges thus fixed, regulated and received for transportation, shall exceed the amount of tolls and duties, together with the charges of freight to which property is subjected as the cost of transportation on the Erie canal, at or before the passing of this act '

Section 16 reads :

"That when the said railroad shall be completed, the president and directors shall make out a minute, full and detailed statement of the expense of constructing the same, which report shall be under oath of the said president and directors, and shall be filed in the secretary's office of this State "

Section 17 :

"That the grant in this act contained is made and shall be deemed to be taken on the condition that if the Legislature of this State shall, at any time within five years from the time of the completion of the said railroad, make provision by law for the repayment to the said company of the amount expended by them in constructing said railroad, with interest, after deducting therefrom the amount of the tolls received thereon, then the said grant shall become null and void, and the said railroad shall vest in and become the property of the people of the State."

It is also provided, as in every act thereafter passed, that the Legislature "may alter, amend or modify this act." In 1828 the act was amended, extending the time to fifteen years in which the State might take the road, but at fourteen per cent interest on its cost, after deducting tolls, charges, etc., received by it.

Various special acts were passed thereafter incorporating railroads, all having the same general features, except that some had the ten per cent clause in and others fourteen per cent, until the first General Railroad Act was passed, in 1848, section 26 of which reads :

"If the Legislature of this State shall, after the expiration of ten and within fifteen years from the completion of any such road, make provision by law for the repayment to any such company of the amount expended * * * with interest on such sums at the rate of ten per cent per annum, together with all moneys expended by said company for repairs or otherwise for the purposes of said road, after deducting the amount of tolls, freight and passage money received on said road, then the said road, with all its fixtures and appurtenances aforesaid, shall vest in and become the property of the people of this State."

Section 30 reads :

"The Legislature may, when any such railroad shall be opened for use, from time to time, alter or reduce the rate of tolls, freight, fare or other profits upon such road ; but the same shall not, without the consent of the corporation, be so reduced as to produce with said profits less than ten per centum per annum, on the capital actually paid in ; nor unless on an examination of the amounts received and expended, to be made by the State Engineer and Surveyor and the Comptroller, they shall ascertain the net income derived by the company from all sources, for the year then last past, shall have exceeded an annual income of ten per cent upon the capital of the corporation actually paid in."

GENERAL ACT OF 1850.

In 1850 the General Railroad Act, under which, as amended, all railroads have since been incorporated, was passed. This act omitted section 26. Section 30 of the act of 1848 was retained *verbatim* with one change, which, as will appear hereafter, has a special significance — "shall have exceeded ten per cent upon the capital of the corporation *actually paid in*," being changed in section 33 of the act of 1850 to read, "shall have exceeded ten per cent upon the capital of the corporation *actually expended*."

Previous to the passage of the general act of 1850 there had been built forty-six railroads. Among these roads are some of the most important in the State, such as the New York Central ; New York, Lake Erie and Western ; New York and Harlem ; Rome, Watertown and Ogdensburgh, etc.

It has been claimed that the ten per cent provision first inserted in the General Railroad Act of 1848, and afterward in the act of 1850, was a wise and beneficent provision by the people in the nature of a pledge or guarantee to encourage the building of railroads, and that without such encouragement but few, if any, would have been built. It will be noted that previous to this time not only was there no such guarantee made, but that the State reserved in every case the right, after a certain number of years, never exceeding fifteen years, to take possession of any such road by settling with it on the basis of a certain per cent of earnings, which varied from ten to fourteen per cent. The limit of time when possession might be taken by the State, and

also the rate per cent, was to be fixed by the Legislature as it deemed equitable, considering the exigencies of each road when the charter was granted.

If the thirty-third section in the act of 1850 was to encourage the building of new railroads, it could apply only to such as have been built since 1850. The only reference in this act to railroads previously built is found in section 49, which reads: "All existing railroad corporations within this State shall respectively have and possess all the powers and privileges contained in this act," etc. To now assert that this application, by the act of 1850, was a part of an irrevocable contract to encourage the building of railroads which had already been constructed is absurd. The following roads were in operation or in process of construction:

	Date of charter.
Albany and Schenectady.....	1827
Albany and West Stockbridge.....	1836
Attica and Buffalo.....	1836
Auburn and Rochester.....	1836
Auburn and Syracuse.....	1834
Buffalo and Black Rock (no report).....	1833
Buffalo and Niagara Falls.....	1834
Canandaigua and Corning.....	1845
Castleton and West Stockbridge, now part of Boston and Albany.....	1834
Cayuga and Susquehanna.....	1842
Chemung.....	1845
Corning, Cowanesque and Antrim.....	1828
Hudson and Berkshire.....	1828
Hudson River.....	1846
Lewiston.....	1836
Lockport and Niagara Falls (no report).....	1834
Long Island.....	1834
New York and Erie.....	1832
New York and Harlem (no report).....	1831
New York and New Haven (no report).....	1846
Northern.....	1845
Oswego and Syracuse.....	1839
Rensselaer and Saratoga.....	1832
Saratoga and Schenectady.....	1831
Saratoga and Washington.....	1834
Schenectady and Troy.....	1836
Skaneateles.....	1836
Skaneateles and Jordan.....	1841
Syracuse and Utica.....	1836
The Buffalo and State Line.....	1848
Tioga Coal, Iron, Mining and Manufacturing.....	1828
Tonawanda.....	1832
Troy and Boston.....	1849
Troy and Greenbush.....	1845
Utica and Schenectady.....	1833
Watertown and Rome.....	1832

TEN PER CENT CLAUSE.

If the ten per cent clause was in the nature of a substitute for the former clause in railroad charters up to this time, which allowed the State to take possession of such road upon paying a sum based upon ten per cent earnings, after deducting the receipts of the road, it is important to note that not one of these ten per cent clauses ever extended beyond fifteen years, the usual limit of time being ten years. Therefore, if, previous to 1850, the State did intend to guarantee ten per cent, and the law of 1850 was a substitute, the limit of time of the guarantee expired in fifteen years from the completion of each road. Otherwise we have the alarming proposition that the Legislature has for all time fixed a permanent tax upon commerce and the people of the State, in order to make an aristocratic class of stock and bondholders. And no matter what may be the financial condition of

the farmer, mechanic or merchant, upon whom railroads depend for business, they are authorized to collect from these citizens, from whom, under the plea of "public good," has been taken the public highways, as well as private property, an amount of tolls which forever guarantees such bondholders an annual net income of ten per cent. Such a proposition has no foundation in the facts of the case, is opposed to the law of the common carrier, which compels the carriage of freight at a *reasonable rate, based on the cost of service*, and is repugnant to section 1, article 8, of the Constitution of the State.

The fact that there has been put in every law enacted by the State in relation to incorporation by steam surface, horse or elevated railroads, the clause inserted in the first special act of incorporation of a railroad, to-wit: "*The Legislature reserves the right to alter, amend or modify this act,*" notwithstanding the same clause was at the time in the Constitution, appears with great significance as a notice to railroads that the State would deal with them as with other corporations created by the State in altering, amending or repealing their charters, as the public good might require.

The important provision, in the interests of the people, under which all railroads were compelled to pay to the State the same rates of tolls on freight as was imposed on similar freight carried on the canals of the State, was repealed in 1851. The Erie railroad, the first competing line in this State for through travel and freight from New York to the west, was now opened, and in answer to the demands of the railroads which were subject to tolls running parallel within thirty miles of the Erie canal, the law was repealed. Had that Legislature at the same time repealed the ten per cent clause, there would have been no just charge of violating an agreement — both were acts of the Legislature regulating railroads, subject to be altered, amended or repealed.

The general act of 1850 was not, as sometimes represented, a wise and benevolent measure on the part of the State to encourage the building of railroads, but possibly on the other hand it was a measure designed to promote the special interests of those who were pecuniarily interested in railroad stocks, to be followed by other legislation in the same direction. It was about this period, when the feasibility of the construction of railroads in this State with connections reaching into the far west, promising fabulous returns upon their cost, that the attention of capitalists was attracted; and whatever was done by the Legislature during this period was under the watchful eye of these capitalists or their agents in Albany. The General Railroad Act was introduced in the Senate in 1850 by a member of the railroad committee residing in Syracuse, whose citizens were deeply interested in securing the completion of railroad connections leading to and from that city, the stockholders of which roads profited largely by the consolidation which followed soon after in the passage of the act of 1850.

In 1851 an act was passed removing all tolls from the railroads of the State. This was followed by the "Consolidation Act," creating the New York Central road, in 1853, initiating the first scheme of stock watering in the State, which pernicious example has been copied and enlarged upon until it is now well nigh impossible, as will here-

after appear, to tell from the railroad reports to the State either the cost of construction or what amount of capital and "water" is represented in their statements of "capital paid in," or the amount of their net earnings.

DONATIONS BY THE STATE.

The State has at various times in the past donated nearly ten millions of dollars to aid in the construction of railroads.

Had the proposition been made to the farmers and real estate owners of the State at the time these appropriations were made, eighty to ninety per cent of which, under our iniquitous system of taxation fell upon real estate, that a perpetual charge upon their industry was to be made in order that the railroads receiving these gratuities might forever after receive ten per cent upon whatever might be called "capital actually expended," there would have been few votes recorded for such appropriations.

Nor are these the only taxes borne by the real estate owners of the State in aid of railroads. In 1857, after the general consolidation of the various roads making the New York Central, the following act was passed by the Legislature: "*All the personal estate of every incorporated company liable to taxation on its capital shall be assessed in the town or ward where the principal office or place for transacting the financial concerns shall be.*"

From investigation I am satisfied that, with here and there an insignificant exception, the great bulk of railroad capital in the State has not been taxed a dollar since the passage of that act until 1880, when the special law was passed taxing corporations at Albany. From tables prepared by me, which are too elaborate to embrace in this report, taking as a basis the average amount of railroad capital liable to taxation under this act during these years, and adjusting the per cent to the amount of increased valuation, it appears if the capital stock of the railroad companies in this State (making a deduction therefrom of one-quarter for miles of road out of the State) had been taxed from 1857, the date of the act, to 1879, inclusive, the assessed property in this State during said period would have been relieved from taxes (including State and local) to the extent of \$78,000,000. These taxes due the State and not paid have rested principally upon the real estate owners of the State, who without any deduction for "*just debts owing*," as in case of personal property, have carried an almost intolerable burden of taxation, which has been largely a bonus to the owners of railroad stocks and bonds.

REPEAL OF THE SECTION.

Under such circumstances, I am of the opinion that no wrong would be done by the repeal of the thirty-third section entirely. It has never, to my knowledge, been honestly and legitimately used by any railroad when the Legislature has sought to reduce fare or freight on a road. It has been used as a bug-bear to forbid legislative interference in complaints of unjust discrimination, on the plea that any reduction of freight would interfere with their contract with the State allowing them to earn ten per cent net income. In the case of the elevated roads it was offered as an excuse, but the records show (see minority

report, page 119, vol. 1, Railroad Commissioners' Report to Legislature, 1883) that this road was not built under the General Railroad Act of 1850, but under special acts and the Rapid Transit Act.

In some cases, reduction would be very unjust to stockholders ; in other cases, a reduction much below ten per cent would be just, both to the owners of a road and to the public. Suppose a road, honestly built, struggles to obtain business for a number of years, dividing nothing to its stockholders, and then finally reaches a point where it pays ten per cent, it would be manifestly unjust for the State to step in now and lower the rate of fare or freight, thus crippling the road at a point when it had first met with merited success. In a case where a road, by flood or fire, or from some great accident, causing serious loss and damage — and such unforeseen accidents sometimes cripple roads for years — it would be unjust for the State to compel the road to lower its charges, until a sufficient time had elapsed to allow it to recuperate. The State can never afford to do a wrong to its humblest citizen, nor to the most powerful corporation.

On the other hand, when the State finds a road that has doubled up its capital by water, inflated its stock by fraudulent issues, or has charged to "capital actually expended" discounts, interest on bonds sold to favored buyers at enormous discounts, equal and exact justice would be promoted by reducing its fare and freight so that its net income should not exceed even the legal rate of interest.

Take another case : A road built through a rural district by donations from individuals or by the issue of town bonds. In process of time, in order to finish and equip the road, it is mortgaged and, on a foreclosure, is purchased at a small fraction on the cost. The individuals have lost their donations, towns for a long series of years struggle to pay the taxes imposed to meet the interest, and finally to pay the bonds, and yet upon every pound of farm produce sold from the farm and upon the supplies brought to the family, the citizens along the line of the road must pay the bondholder, not ten per cent on what the road cost him, his "capital actually expended," but the full ten per cent upon the sum paid originally in its construction, notwithstanding the original owners lost every cent of their investment. The New York, Ontario and Western (Midland) road is one of many examples of this kind. The towns along the line of this road have not yet paid their bonds, while the original stock and bonds have been wiped out by legal process ; but the bondholder sits in his mansion in New York, London or Paris enjoying the luxury of wealth forced from the ten per cent contributions levied upon the people along the line of the road by virtue of the thirty-third section of the General Railroad Law of the State of New York.

These illustrations seem to enforce the proposition that the rate should not only be lowered from ten to nine per cent, but that the entire clause should be repealed, leaving the whole matter with the peoples' representatives to deal with each road justly and fairly, protecting on the one hand the people, and on the other seeing that no injustice is done to the railroads.

PUBLIC POLICY.

No more important question can be raised than the public policy of

the State in permitting its railroads to earn any more net income than the legal rate of interest, with a fair allowance for repairs, contingencies, etc., which would all be covered by an extra one per cent, in the case of steam railroads, and a very small fraction in the case of horse roads. It may not be wise for the State to limit the profits of other corporations, for competition here protects the people, and such corporations do not occupy and monopolize the public highways, taking by the power of the State, ostensibly for the public good, the citizens' private property. But over and above all looms up the absolute right and public necessity of the State, in the interest of commerce, to have the freest and cheapest communication to and from the markets of the world. A tax upon commerce strikes a foul blow at a vital point. Lower the earnings of railroads from ten per cent to a six per cent basis, and every manufacturer, merchant, or farmer who sends a tub of butter or box of cheese to market, will feel the relief. Not a mechanic, artisan or laborer but will reap the benefit in the lowering of rates of fare, and the price of bread stuffs and groceries, which supply his family wants. The one great *desideratum* sought for by the manufacturer and shipper is cheap freights. This boon can never be reached until the railroad policy of the State is changed. Give New York State cheap freights, not cheap through freights alone, but cheap freights on every lateral road in the State, and the busy hum of manufactures will be heard in thousands of localities where now is the sleep of death, and a home market will be close at hand for all the products of the soil. This State and New York city would lead the world in all kinds of manufactures and commerce were it not for the deadly incubus of its "watered" railroad stocks on which an insane struggle is constantly going on to make pay ten per cent dividends, regardless of their actual cost of construction.

Can any good reason be given why, after bearing such onerous burdens to preserve the traditional policy of the supremacy of New York through her water-ways, railroads, which carry the traffic brought to the State originally by the canals, shall be allowed to toll this commerce to make their watered stocks pay ten per cent, when State and national securities are freely negotiated at less than four per cent? Why should railroad securities, even when honestly issued, be insured against the vicissitudes of trade and business? The commercial value of money and the legal rate of interest must decline in the contest going on between capital and labor, and yet it is urged that railroad capital, amid all these changes, must always earn ten per cent net income before its earnings can be legally reduced.

FREE RAILROADS.

The absurdity of the State permitting railroads to earn ten per cent net income, even upon honest capital, is seen in the light of the arguments which convinced the people of the wisdom of making the canals of the State free. Not only was the magnificent sum of \$51,000,000 freely given by the people of the State to preserve its commerce, but a tax is to be forever levied annually upon the people of the State to pay for the maintenance of a free canal. Every argument used in favor of free canals suggests a policy leading to free railroads, and yet, after taking this important step in the right direction, a railroad policy is

proposed to be continued directly opposed to the free canal policy of the State. The people waited many years too long before the wise policy of free canals was adopted and, as the result, we reap no such benefits as were anticipated. A similar delay and neglect in changing the railroad policy of the State, which permits commerce to be tolled to pay ten per cent dividends upon grossly watered capital, will surely destroy the commercial prosperity of the State, notwithstanding the munificent gift by the people to commerce of the free canal.

It is a natural law that land contiguous to a great city market is more valuable than when situated at a great distance. Our railroad system has brought the farms of the State within a few hours of New York city, but the false ten per cent policy of the State has made it impossible for our farmers, remote from trunk lines, to compete with western farmers a thousand miles further from market. The result is that farms generally, even when near city markets, are little, if any, higher per acre than before the General Railroad Act of 1850 was passed. This appeared in the examination of the Board along the line of the Harlem road, in Westchester county, and also on one other road near the center of the State. Such facts are full of significance and serve to emphasize the arguments for a new policy by the State which, while carefully protecting corporations in their just rights, shall initiate a new system, not only embracing free canals, but also a low rate of tolls based upon the legal rate of a six per cent dividend, culminating in a comparatively free system of railroads for the State.

WHAT IS "CAPITAL ACTUALLY EXPENDED?"

It will be necessary before analyzing the table inserted by my associates to show that the ten per cent rate should not be lowered by the Legislature, to settle the question, what is the meaning of capital actually expended, for upon its proper definition depends the accuracy of any statement as to the net earnings of railroad capital. To the common mind it needs but little argument, if any, to prove that "capital actually expended" in building a railroad means the cash paid for its construction. A railroad corporation might have millions of capital in its coffers, but the thirty-third section of the law reads that reduction of fare or freight shall not take place until "*the net income derived by the company from all sources for the year then last passed shall have exceeded an annual income of ten per cent upon the capital of the corporation actually expended.*" It is not ten per cent upon "capital," nor ten per cent upon "capital paid in," but upon capital actually expended in the construction of the railroad. The act did not intend a ten per cent guarantee upon any capital not "actually expended." If this was not the meaning, the qualifying words "actually expended" would not have been used. It implies the possible existence of capital not actually expended, such as would naturally be in the treasury when a road was completed and in operation only in part, being in the process of completion and not finished. In this view the reason is apparent why the change already alluded to in section 30 of the general act of 1848 was made from "*capital actually paid in*" to "*capital actually expended.*" This, however, is not the interpretation usually given as the meaning of "capital actually expended" by railroads.

It is claimed by most of these corporations that the words "**capital actually expended**," upon which a sacred guarantee of ten per cent dividend has been given by the people in the thirty-third section of the act of 1850, covers not only the money subscribed and paid in good faith, but also interest on money borrowed, discounts on bonds sold to favored members, bonuses paid for legislative services, or sums used to buy up rival lines, to destroy competition, etc., provided these sums are aggregated together in the shape of a mortgage on a railroad. In this view, after a mortgage is legally placed upon a road, the interest upon which is payable first out of the earnings, it then becomes what is termed a "**fixed charge**," like the rental charged for depot buildings or side tracks, or any other charge properly made against the earnings of the road before its net earnings can be determined — in fact, as soon as the road is mortgaged, no matter even if the money realized from the mortgage is used to pay dividends not earned, or any other dishonest purpose, it forever after becomes either a "**fixed charge**" or "**capital actually expended**," and must be so treated by the Legislature. To this proposition the people reply that the obvious meaning of the words "*capital actually expended*," covers only that amount of money — hard cash — which *has actually been paid out in constructing and equipping the road*; and that discounts, interest, bonuses, Legislative and lobby expenses, with all the other definitions that go to make up the aggregate of "**water**" and inflation of modern railroad capital, must be rigidly excluded, leaving the perpetrator of such frauds to settle with his victim, instead of saddling the burden upon the commerce and business of the State. A little inquiry will be necessary to determine which of these definitions are correct.

The first railroads constructed were built from capital honestly subscribed and paid in. After the stock watering mania began in this State another equally vicious system of inflation sprang into existence, producing, in the end, the same result. Instead of subscribing a sufficient amount of capital to build and finish a projected road, a limited amount was subscribed and then mortgage bonds were issued and sold at what they would bring, in some cases to the real stockholders themselves, by pre-arrangement, at a large discount, the face of the bonds sold being charged as "**capital actually expended**," without regard to the amount of cash received from the bonds. An illustration of the practical working of this pernicious system is found in the case of the elevated railroads of New York, where \$8,500,000 bonds were issued at twelve and one-half cents on the dollar to par — the loss on \$15,000,000 being \$4,898,170, all of which loss was charged as "**capital actually expended**." An opinion of Hon. Leslie W. Russell, late Attorney-General, in response to an inquiry by the Legislature in 1882, relating to the elevated roads, presents the reasons for the interpretation contended for by the people very clearly. He says:

"If the company sold its bonds and received in return therefor fifty per cent of the nominal amount, it had so much in the treasury, and if it expended that cash for the construction of the road, that amount would be the cost of the enterprise within the meaning of the law. * * * Any other rule would provide an easy evasion of the intent of the act by floating excessive amounts of stock and bonds for far less than their par value for constructing purposes; for the very purpose of preventing the profits from ever reaching the ten per cent provided by law."

The elevated roads of New York sold millions of stock at twelve and one-half cents on the dollar, but claimed the full face of the bonds as "capital paid in."

No argument is necessary to show that such capital is not the "capital actually expended," referred to in the thirty-third section of the General Railroad Act, nor are tables of which such capital forms a part reliable upon which to calculate net earnings, capital or dividends. It may be remarked that these tables do not contain the horse and elevated railroads who claim to be acting under the general act. This would materially vary the percentages, but would not make the tables any more valuable for calculations, showing net earnings.

NET INCOME.

If we have accurately stated the meaning of "*capital actually expended*," the next inquiry is what is meant by "the net income derived by the company from all sources for the year then last past." The answer of the railroads is that it is the sum left after paying the cost of operation and the "*fixed charges*." If a road is mortgaged, it is reasoned, certainly the charges must be paid, hence they are "fixed" and are of the same nature as legitimate fixed charges, such as rentals paid for buildings, for depots, side tracks, etc. The present managers of railroads are not disturbed by any exhibit of the items in detail of past construction accounts, the obvious answer being that these things happened "under a previous administration;" but when it is contended that interest or discounts fraudulently paid on bonds, or money borrowed "under a previous administration," is equivalent to a dividend and should be added to the dividend on capital to find "net income," in the eye of justice and the law, there is a stout resistance. The illustration of the elevated roads is again in point. Five million dollars in round numbers was found to be "water," representing discounts, etc. This \$5,000,000 is now a part of the bonds of the road on which interest is paid. If this interest so paid is not a part of the net income of the road equally with the dividend, then the people in such a case will never see the time when that road or any other earns ten per cent; for if such a period should ever approach, it will be, judging from the past, forestalled by issuing more bonds upon which to absorb the earnings of the road to pay interest as "*fixed charges*."

The tables presented not only do not show correctly the capital actually paid in, but are equally faulty in the matter of dividends and net income. The Harlem road appears in the table with a capital of \$9,450,000, upon which the dividend is eight per cent. In 1883 the Board investigated this road (R. R. Com. R., 1st vol., p. 172 to 213, 1883), and found as follows: "The road from the Grand Central depot to Chatham was leased in 1873 to the New York Central and Hudson River railroad for 401 years, at eight per cent upon the capital stock outstanding, which was in 1882 \$9,450,000 (\$756,000), and also a guarantee of payment of the interest on the mortgage bonds on the road which were in 1882 \$11,000,000 at seven per cent and \$5,000 at six per cent" (\$777,300), grand total of rental being \$1,533,300. If the railroad interpretation, which is shown in the table, is correct, the "net income" is but eight per cent, the rental on the capital stock. The road, however, earned over and above its operating expenses

\$1,533,300, which was its "*net income*." The disposition of the money, whether in the form of a dividend to stockholders or to pay the interest on its seven per cent bonds (bought by the same stockholders of the road), does not change the fact of the net earnings of the road, which has been nearly twelve per cent, as will be shown hereafter.

Notwithstanding these views of "*capital actually expended*," and "*net income*," are not in harmony with the railroads, I am quite confident that they are correct, and only on account of their vital importance to the question of the real earnings of railroads, which do not correctly appear in the tables, are they urged. In addition to the opinion of the Hon. Leslie W. Russell, late Attorney-General, I submit the following decision of the United States Supreme Court, concurred in by all the judges: *Union Pacific Railroad Company v. United States* (99 U. S. Rep. [5 Otto] 9, 462), the court declares:

"As a general proposition, net earnings are the excess of the gross earnings over the expenditures defrayed in producing them, aside from and exclusive of the expenditure of capital laid out in constructing and equipping the works themselves." * * * "All payments of interest on the bonded indebtedness of the company should be charged to capital, interest account and not to current expenditures. Though payable out of earnings before any dividends can be made to stockholders, they cannot be deducted for the purpose of ascertaining the net earnings of the road." * * * "The bonded indebtedness incurred for the purposes of construction and equipment is but another form of capital and analogous to preferred stock; and the interest accruing thereon is in the nature of a dividend on such capital. It has nothing to do with, and cannot affect the amount of, the net earnings of the road."

RAILROAD EARNINGS.

Unfortunately through ignorance or design, while the law of 1850 was supposed to provide for such annual returns to the State as would enable the people to know just what earnings were made by railroads, there have been no returns made to the State upon which an intelligent statement can be made. The table prepared by my associates, upon which is based their statement of the earnings of the railroads in the State, is the best the State affords, but is valueless and misleading as a basis upon which to calculate the "*net earnings*" upon "*capital actually expended*." It neither shows the facts as to the cost of the roads, the capital actually expended, or the net income derived. A calculation based upon dividends paid on capital is misleading because the capital does not show the cost of the road. If the dividend, however, was calculated on the cost of the road, as shown by capital and bonded debt, which in some cases shows more nearly the cost of the road, the dividends would be reduced. The only true basis upon which to compute the net earnings is upon the actual cost of the road, which is supposed to be shown by the construction account, the net earnings being the excess of the gross earnings over the expenditure defrayed in producing them, without reference to how such net earnings are paid out, whether as a dividend on capital or as interest on bonds.

The following table shows that the New York and Harlem road has paid nearly twelve per cent upon its honest capital (see report in Harlem milk case, Railroad Commissioners' Annual Report, 1883, p. 205), for a term of ten years, up to 1882, when this table was made.

NEW YORK AND HARLEM RAILROAD.

Cost of Road and Equipment.

YEAR.	Cost of road and equipment.	Taxes paid.	Interest paid.	Dividends paid.	Total payments from earnings.	Per cent of total payments from earnings to cost of road and equipment.
1873.....	\$12,562,814 62	\$75,879 07	\$487,834 50	\$720,000 00	\$1,283,718 57	10.23
1874.....	14,745,645 06	136,997 02	600,906 88	900,000 00	1,637,903 85	11.10
1875.....	15,474,959 49	164,656 93	743,213 03	905,000 00	1,812,769 96	11.71
1876.....	15,845,383 40	140,924 48	743,213 03	905,000 00	1,789,137 51	11.30
1877.....	16,216,491 64	140,388 68	743,213 03	905,000 00	1,788,001 71	11.08
1878.....	16,262,353 64	158,166 72	743,213 03	1,039,500 00	1,940,879 75	11.94
1879.....	16,257,638 64	137,328 76	743,213 03	1,039,500 00	1,920,041 79	11.81
1880.....	16,485,643 53	140,747 83	743,264 83	1,039,500 00	1,923,512 66	11.70
1881.....	16,504,868 53	181,628 89	777,673 75	1,039,500 00	1,998,702 64	12.11
1882.....	16,893,236 25	195,175 31	777,673 75	945,000 00	1,917,849 06	11.85

In addition to these dividends the road had a surplus undivided of \$405,000. (See Harlem case, Annual R., p. 206, 1883.)

TABLES MISLEADING.

The table presented being found unreliable as a basis for calculating capital, dividends or net income, the deductions therefrom are equally unsatisfactory. Take for illustration one of the principal roads included among the seventy-five roads which pay no dividend or net income, according to the table, The New York, Lake Erie and Western.

Net earnings, in the language of the United States Supreme Court, "are the excess of gross earnings over the expenditures defrayed in producing them." The gross earnings of this road for the year 1884 were \$22,715,060.97. The expenditures (cost of operation) were \$17,972,104.97, leaving a "net income" of \$4,742,956, which would give a dividend of nearly six per cent on the capital claimed of \$86,536,900, or over twelve per cent on its real cost of construction. This magnificent road, with its splendid equipment and service, second to no road in the State, connecting the city of New York with the great lakes of the west, running through a section of the country alive with manufactures and commerce, with unlimited quantities of coal at its doors, is not a pauper road earning no dividend, but, on the contrary, is one of the very best paying roads in the State on its honest cost of construction. If its net earnings on such capital had been paid out in dividends on its stock instead of interest on its fraudulent bonds, or if such interest, when paid, had been treated as dividend, the showing would be far different from that in the table.

This company has the second largest capital stock of any railroad in the State, it being only \$2,891,400 less than the New York Central. Its wonderful increase of capital will be realized in view of the facts that its capital stock reported to the State in 1867 was, \$35,111,210
 1868..... 46,302,210
 1869..... 78,536,910

Its capital reported in 1869 exceeded the aggregate of the entire capital stock of all the railroads in the State reporting to the State Engineer for that year. The real additions, however, according to the construction account reported to the State for these years, amounted in the aggregate to only \$7,037,192.81, but the increase is over forty-six millions of dollars.

In 1869, in its annual returns to the State, appears the following item: “\$4,774,220.40 discount on sale of convertible bonds.” In three years after, the construction account was in a similar manner increased \$30,582,445.19. The current, and only explanation offered at the time for this large increase being, that it was required for *steel* rails.

The Harlem construction account showed charged as cost, \$22,599,-590.58. The Board found that the true cost was \$17,643,236.25; but in this table the dividend is based on a capital of \$9,500,000, ignoring the bonded indebtedness entirely. By a legislative act in the same year, \$44,000,000 of New York Central stock certificates were authorized and have since been changed into stock, “capital paid in.”

The tables prepared by railroads are, in the majority of cases, deceptive and misleading, but all in one direction, to cover up and hide the real cost of construction and net earnings. The above are fair samples, of which many more might be given, of the real cost and earnings of the steam surface roads of the State, when calculated upon the actual cost of construction.

STREET RAILROADS.

In 1827 there might have been some reason for a guarantee by the State for ten or fifteen years to encourage the building of steam railroads in the sparsely settled districts of the State, but to contend that any such guarantee was necessary or appropriate, particularly in the case of the horse railroads of New York city, for all time, is against reason, and as an examination of the items embraced in their capital will show, without any justice. As a matter of fact, neither the horse or elevated railroads of New York are organized under the act of 1850. The law was used to organize these roads for other purposes than building. In the case of the horse railroads the organization was made after a special act had been obtained from the Legislature to enable its promoters to sell the valuable franchise secured. The unseemly scramble now going on in that city for these valuable franchises is a reminder of what, until the constitutional amendment of 1874 was adopted, was continually transpiring at every session of the Legislature. In those days—now happily passed away—a member of the Legislature with railroad aspirations was sure to retire from the public service well provided for in the present and future. All over the State

are men now living in affluence, whose first "capital actually expended" was in the votes they bartered for a street railroad, in which was some "dummy" representing their interest. The examinations now going on in the street railroads of New York city have so far shown a very large proportion of water to capital. The following abstract from an official examination made by order of this Board of one horse roads in New York city is presented as a fair sample of the kind of "capital actually expended" upon which enormous dividends have been, and are now being paid by a forced toll from the public to enrich corporations, whose franchises cover the public streets of New York. This road is not singled out from others as the worst example, but as a sample of some of the principal horse roads of the city as developed in an examination now being conducted by the Board.

From the accountant's report to the Board it appears that the Forty-second Street and Grand Street Ferry R. R. Co., New York city, incorporated February 8, 1863, commenced running November 8, 1863. The cost of the road and equipment and buildings complete to September 30, 1884, found from the books, is \$508,204 73.

This amount has been paid for as follows:

From proceeds of stock sold.....	\$209,416 50
From proceeds of seven per cent bonds, the interest of which is regularly paid out of earnings before a divi- dend is declared.....	220,000 00
Leaving a balance, which has been paid from earnings, of	78,788 23
	\$508,204 73

The capital stock was fixed at \$750,000, all being of the nature of water except the first item. All the cash paid by the stockholders being \$209,416.50. Upon this stock the accountant reports the following:

Dividends up to 1866.....	\$140,491	
1867.....	37,400	5 per cent
1868.....	74,800	10 "
1869.....	74,800	10 "
1870.....	56,100	7½ "
1871.....	67,320	9 "
1872.....	74,800	10 "
1873.....	67,320	9 "
1874.....	67,320	9 "
1875.....	67,320	9 "
1876.....	74,800	10 "
1877.....	74,800	10 "
1878.....	89,760	12 "
1879.....	97,240	13 "
1880.....	97,240	13 "
1881.....	97,240	13 "
1882.....	89,760	12 "
1883.....	104,720	14 "
1884.....	112,200	15 "
	\$1,566,431	

The following table prepared by me shows the net earnings upon the cash actually paid by the stockholders for the construction of the roads which, as shown above, was all told — \$209,416.50 :

Average dividends for first three years about twenty-three per cent :

	Per Cent.
1867.....	17.88
1868.....	35.71
1869.....	35.71
1870.....	26.78
1871.....	32.15
1872.....	35.71
1873.....	32.15
1874.....	32.15
1875.....	32.15
1876.....	35.71
1877.....	35.71
1878.....	42.86
1879.....	46.43
1880.....	46.43
1881.....	46.43
1882.....	42.86
1883.....	50.00
1884.....	53.58

The average annual dividend upon the cash paid by the stockholders of this road since it was built is nearly thirty-eight per cent. So far as the examinations have been made by the Board, of street railroads in New York similar excessive earnings appear, and it may be safe to say that in the majority of the roads one-half or more of the capital claimed is simply water. No such bonanza of wealth has ever been discovered since the days of Tweed as that which now exists in the street railroads of New York city.

It was a common remark, during what was called the "gridiron" period in 1860, when so many street routes were bartered away by the Legislature, "that for every \$1,000 of stock, \$500 was paid to secure the franchise;" and upon this "capital actually expended" in debauching the representatives of the people enormous dividends have been, and are now being paid, filched largely from the hard earnings of day laborers working at ninety cents a day, and poor women, with heavy bundles of shirts stitched in a cold garret at thirty cents per dozen; traveling to and from their daily toil. That these statements may not seem exaggerated I select the following out of a number of *official* attestations which might be adduced:

In the Constitutional Convention of 1868, before a committee of which the late Hon. George Opdyke was chairman, it was proved by two officers of different roads, one a steam, the other a horse, that in the previous year \$280,000 was expended at Albany to procure legislation. This sum undoubtedly is included in the "capital paid in" of these respective companies. (See Con. Doc., 1868, No. 150, vol. 5.)

In this view, any charge by the city for a railroad franchise, or for annual payments to the city on receipts, inevitably postpones the day of cheap fares and is a direct tax upon those who travel over such roads. This, however, is a question for New York city to determine. The streets of New York are the property of her citizens—the humblest as well as the most powerful citizen being a joint owner. The history of her horse and elevated roads show that the only real estate in the city that a poor citizen can claim ownership to has been by law taken from him for public use, forcing him in return to pay toll from his scanty wages as he travels to and from his daily toil, in exorbitant fares, to build up colossal fortunes for the owners of these valuable franchises.

From the examination so far made of the horse roads of New York, embracing some of the most important, I am of the opinion that the horse roads generally of that city can pay a fair dividend on honest cost of construction and carry passengers at the rate of three cents instead of five, and that the elevated roads can reduce their rates by extending their hours and also in a general reduction of fares, their earnings on their honest capital the past year being nearly twelve per cent.

It is clearly for the best interests of New York city that the means of travel and communication to and from all points on the island and the suburbs of the city shall be quick and cheap. Any tax or toll upon travel beyond what is clearly necessary must inevitably retard the growth of the city; hence it is of the gravest importance that her railroads be capitalized at their real cost, and not upon a fictitious capital.

STOCK WATERING.

The State of New York was the first to initiate a most vicious system of stock watering, and her bad example has spread all over the nation until commerce is fettered and shackled in the toils of railroad corporations. The common device of the stock and bondholders is to proclaim that railroad stocks are unremunerative, paying less than other investments, which statement is undoubtedly true of the watered stocks on the market, but notoriously false when their net income is calculated on honest capital. In the support of this statement I refer to the following from the best standard authority in railroad matters in this country (Poor's Manual, 1884, pp. 3, 4):

"The increase of share capital and indebtedness of all the companies for three years ending December 31, 1883, was \$2,093,433,054, the cost of the new mileage, as represented by share capital and debt, being about \$70,000 per mile. The increase in the three years of the funded debts of all the companies was \$924,165,440, of their floating debts, \$169,880,406; of the two, \$1,094,045,846. It is not probable that the cost of the mileage constructed in the three years equaled the increase of funded and floating debts by at least the sum of \$200,000,000. The cost of mileage constructed certainly did not exceed \$30,000 to the mile. The whole increase of the share capital, \$999,387,208, and a portion of the funded debt, was in excess of cost of construction." "If it be assumed that the cost in money of all the roads in operation in the United States in 1883 did not exceed, as it certainly did not, the amount of their funded and floating debts (\$3,787,410,728), the actual investment was a most profitable one. The net earnings for the year were \$336,911,884, a sum equaling about nine per cent on their cost. If the fictitious capital could be eliminated from their accounts their success as investments would have no parallel."

It will not be claimed that the railroads of the Empire State of the Union, with the port of New York city as their eastern terminus, are not earning as much as the general average of all the roads in the nation.

The system of railroads in this State has become so gigantic that it is no pleasant task to appear to arraign the policy under which they have been built or are now operated. But vast and powerful as the system is, reaching from the highest dignity of State through the various departments, down to the day laborer who works on the track, the commercial interests involved and the sacred rights of the people, who are, in fact, joint owners in these public highways, demand rigid inquiry into and prompt removal of abuses when found.

The work of bringing order out of confusion, the outgrowth of the mania of stock watering and stock gambling, is a herculean, but not impossible task. The cash expended in the construction of each railroad needs to be honestly inquired into by the State and, when found, the law should, in the interest of commerce and manufactures and the public good, limit the net earnings of all railroad corporations to the legal rate of interest, after allowing a sufficient margin to keep each road up to the highest standard of efficiency. One per cent allowance will be ample for this purpose. If the State, in the past, has legalized the watering of stock, it should, in a lawful way, be retired. There are no conditions under which the people of the State of New York will condone the offense of repudiation. The law of competition, in some cases, will keep railroad earnings near the standard of legal interest, but where no such competition exists, as well as on sound principles of public policy, the argument is irresistible in favor of such regulation by the State as will forbid, except in exceptional cases, as heretofore noted, railroads from charging a rate for fare or freight which will produce to exceed six per cent net income with one per cent allowance to keep the roads up to a high standard upon the honest cash capital expended in their construction.

The inexorable demands of commerce in the end will sweep away all barriers. The waterways of the State are being rapidly superseded by the railways. The people of the State in the near future, in the interests of commerce, will be obliged to extend the same generous protection to her railroad system as that heretofore extended to her canals. Preliminary to this, however, there must be an honest capitalization of railroad property. If, in no other way, by appraisement by the State, and upon such railroad capital, when it becomes necessary to lower the tolls or charges for the protection of commerce below a reasonable income, the State will be obliged, as in the case of the canals, to bear the burden.

After careful inquiry, I am satisfied that, upon honest capital, the steam railroads of the State have earned for the past ten years a net income largely in excess of ten per cent, and that there is no equitable or legal reason against a general reduction of such earnings to a point at or near the present legal rate of interest.

The capital of the railroad corporations of the State amounts in round numbers to \$648,000,000. This capital, it is claimed, is largely fictitious. There is good reason to believe that the toll now charged both for passengers and freight is, on most roads, too high, producing far more than a reasonable income on the real capital invested.

The inquiry of the honorable the Assembly of the State I have endeavored, in the best interests of the people, to answer. I beg in conclusion to recommend the passage of the following in place of section 33 of the general act of 1850.

§ 33. The Legislature may, when any such railroad shall be opened for use, from time to time alter or reduce the rate of freight, fare or other profits upon such road; but the same shall not, without the consent of the corporation, be so reduced as to produce with said profits less than six per centum per annum on the cash capital actually expended in its construction, including such real estate as may be necessary for the operation of such road; nor, unless, on an examination by the Board of Railroad Commissioners, they shall ascertain that the net

income derived by the company from all sources has aggregated for a period of ten years a sum equal to an annual income of six per cent upon the said capital actually expended, after allowing an additional one per cent income upon such capital, or so much thereof as may be necessary to keep such road in the best condition for public use. It shall be the duty of the Board of Railroad Commissioners, as soon as practicable, to examine into and ascertain the cash capital actually expended in the construction and equipment of each railroad in the State, together with the net income from such road for a period of ten years preceding such examination, and report the facts in each case to the first Legislature in session thereafter.

JOHN O'DONNELL,
Commissioner.

Attest.

WILLIAM C. HUDSON,
Secretary.

IV.

REPORT OF THE BOARD OF RAILROAD COMMISSIONERS IN ANSWER TO A RESOLUTION OF THE SENATE RELATIVE TO THE AFFAIRS AND CONDITION OF THE LONG ISLAND CITY AND CALVARY CEMETERY RAILROAD COMPANY.

April 9, 1885.

To the Honorable the Senate of the State of New York:

On April 2, 1885, the Board received from your honorable body the following resolution:

Mr. Cullen offered the following:

WHEREAS, By chapter 681 of the Laws of 1871, the Long Island City and Calvary Cemetery Railroad Company was incorporated with power and authority to construct and operate a railroad over and upon certain streets, roads and avenues between Thirty-fourth street ferry in Long Island City and Winfield, and subject to certain restrictions and directions in regard to the organization and management of said corporation, the construction and operation of its road, the amount of capital stock and bonded indebtedness authorized; and,

WHEREAS, Since the date of its said incorporation the said company has only constructed such portions of its road as lie between Long Island City, at the commencement of the avenue leading from the ferry to Laurel Hill or Calvary Cemetery; and,

WHEREAS, By chapter 504 of the Laws of 1883, and in pursuance of the permission therein contained, the said Long Island City and Calvary Cemetery Railroad Company was merged in the Long Island City and Maspeth Railroad Company, a company owning the route of, but never having constructed any portion of, a railroad, and the last-named companies were, in June, 1883, merged and consolidated in the Long Island City and Newtown Railroad Company, which now owns and is vested with all the rights and powers of said Long Island City and Calvary Cemetery Railroad Company, and operates the same under the articles or agreement of consolidation; and,

WHEREAS, The various reports, made pursuant to law since its incorporation by the said Long Island City and Calvary Cemetery Railroad Company, have been in correct, misleading, in that such reports do not disclose the amount of capital stock actually subscribed and the amount thereof actually paid in, the total cost of constructing said road, the total earnings from all sources, the amount paid for interest on bonded or other indebtedness, the amount paid for dividends on capital stock, the amount charged and collected for fare thereon, and the number of passengers carried; and,

WHEREAS, The sufficiency of its accommodations and facilities for public travel, both in cars and animals used for transportation of passengers, the irregularity of trips, and the delays and public inconvenience resulting from inadequate service; and,

WHEREAS, No limit of fare was fixed in the said act of incorporation, and the same is now fixed by the managers of said company arbitrarily at a rate far above the actual value, to-wit: at the rate of ten cents for each passenger for one trip, although the report, or statement of, for the year 1883, under oath, states that the rate of fare charged is only seven cents. and,

WHEREAS, These matters have occasioned wide-spread discontent, and demand redress and correction, therefore.

Resolved, That the Board of Railroad Commissioners be, and they hereby are, requested, at the earliest time practicable, to investigate the affairs and condition of the said The Long Island City and Calvary Cemetery Railroad Company especially with a view to ascertaining the amount thereof actually paid in; the amount of bonded indebtedness, how incurred, and for what purpose applied; the number of *bona fide* stockholders of said company; the actual cost of construction and equipment of said road; the condition of the cars, and the quality and condition of the animals used in transportation of passengers; the rates of fare charged and collected; the condition of track and road-bed; the circumstance of merger and consolidation with the said The Long Island City and Newtown Railroad Company, and the condition under which the same is now operated, and generally such information as will by them be deemed necessary and proper in addition to the foregoing to remedy and correct these abuses, and report the same to the Senate upon the completion of the investigation, with their recommendations thereon.

In answer thereto the Board respectfully reports as follows:

First. As to the amount actually paid in; the amount of bonded indebtedness, and for what purpose applied; the number of *bona fide* stockholders of the said company, and the actual cost of construction and equipment of said road.

The president of the road, Patrick J. Gleason, Esq., informs the Board that on or about November 1, 1884, for the purpose of arranging the sale of some other roads, the books were taken away by Mr. Crawford, then acting as secretary. Mr. Crawford died very suddenly a short time since, and the president says that he has been unable to find said books, and that he cannot produce them. The Board can therefore only present the statement of the president, which is as follows: \$50,000 of stock and \$50,000 of bonds were issued to Jeremiah Sullivan for constructing one and three-quarter miles of road. Subsequently a contract was made with John H. Courtney, of Brooklyn, to bridge Newtown creek, which required eighteen months, during which passengers were transported in boats. This contract, in addition to the bridge referred to, called for raising the street grade about six feet for a distance of one mile and extending the road about one mile, and double tracking the entire line. This is not finished. The company issued as payment under the contract \$50,000 of capital stock and \$50,000 of bonds.

There is now outstanding \$100,000 capital stock and \$100,000 of bonds, of which the president holds \$25,000 of stock and \$20,000 of bonds. The number of stockholders he states at twenty-five or thirty, including James Lamb, \$20,000; Tobias Burke, \$10,000; John Courtney, unknown; James Kennedy, \$5,000; Edward Merrick, Peter F. Delaney, Michael Conway, Andrew Murray, Stephen Simmons, Augustus Rapelye and Isaac Buchanan, holders of from one to three shares each.

From a memorandum cash-book, kept by the president, the following receipts and disbursements since November 1, 1884, appear:

MONTH.	Receipts.	Expenses.	Loss.
November, 1884.....	\$725 04	\$1,100 32	\$365 28
December, 1884.....	341 76	512 37	170 61
January, 1885.....	297 47	657 16	259 69
February, 1885.....	214 87	486 24	271 37
March, 1885.....	263 38	569 60	286 22
Total.....	\$1,872 52	\$3,225 69	\$1,353 17

Nothing else appears in said books.

Second. As to rates of fare charged and collected.

The rate of fare charged is seven cents on week days; ten cents on Sundays. Tickets are sold for the round trip at ten cents each, or twenty single trip tickets for one dollar.

Third. As to the circumstance of merger and consolidation with the said "The Long Island City and Newtown Railroad Company," and the condition under which the same is now operated.

The information herein requested will be found in the consolidation agreement, on file in the office of Secretary of State, a copy of which is herewith transmitted, as follows :

Joint agreement made this twenty-third day of June, in the year one thousand eight hundred and eighty-three, under and pursuant to chapter 504 of the laws of eighteen hundred and eighty-three, by and between The Long Island City and Calvary Cemetery Railroad Company, party hereto of the first part, and The Long Island City and Maspeth Railway Company, party hereto of the second part, witnesseth as follows : In consideration of the mutual agreements, covenants, grants and provisions herein contained, the said parties of the first and second parts do, by these presents, agree to merge, combine and consolidate their respective capital stocks, franchises, grants, immunities, privileges, capacities, properties and rights of way, and real and personal estate of every name and nature, into one company, to be called and known by the corporate name and style of "The Long Island City and Newtown Railroad Company," which said corporation, to be hereby formed, shall from henceforth have and possess all and singular the rights, franchises, powers, immunities, privileges, capacities and estate, real and personal, which are or have been granted to or conferred upon, or possessed or enjoyed by either of the said parties hereto, by or under the laws of the State of New York or otherwise. And that the said parties of the first and second part have agreed upon, and by these presents do agree upon and prescribe the following as the terms and conditions of such consolidation, which terms and conditions the said parties of the first and second part mutually covenant, promise and agree to observe, keep and perform, viz. :

1st. The corporate name of the said consolidated company shall be The Long Island City and Newtown Railroad Company.

2d. The number of the directors of the said consolidated company shall, after the first year, be seven.

3d. The names and places of residence of the directors and other officers of the said consolidated company, who shall be the first directors and other officers thereof, and shall manage its affairs until after the election herein provided for, and until others are chosen in their places, are as follows, to-wit :

Officers.

Isaac Buchanan, president, New York city ; Augustus Rapelye, treasurer, Brooklyn ; George S. Crawford, secretary, Brooklyn ; Jesse Johnson, counsel, Brooklyn.

Directors.

Isaac Buchanan, New York ; Augustus Rapelye, Brooklyn ; George S. Crawford, Brooklyn ; Stephen I. Simmons, Brooklyn ; Clarence A. Barrow, Brooklyn ; Patrick J. Gleason, Long Island City ; Michael Conway, Long Island City.

4th. The amount of capital stock of the said consolidated company shall be one hundred and sixty thousand dollars, consisting of three thousand two hundred and fifty shares of fifty dollars each.

5th. The capital stock of each of the said parties of the first and second part respectively shall be convertible into the capital stock of the said corporation to be hereby formed, and shall be issued to the several persons holding the stock of the two companies, parties to this agreement, upon the surrender of the stock of said two companies by them so held respectively, and the stock of the corporation hereby formed shall be so issued in amounts equal in par value to the amounts of stock by any stockholder so surrendered and so that, upon all such stock of both said corporations being surrendered, sixty thousand dollars' worth par value of the stock of the corporation to be hereby formed shall be issued to the holders of the stock of the corporation first hereinbefore named, the party hereto of the first part, and one hundred thousand dollars' worth par value of such stock shall be issued to the holders of the stock of the corporation secondly hereinbefore named, the party hereto of the second part.

The company to be formed by this agreement may prescribe a reasonable method and time and times for such surrender of stock, and provide reasonable and proper rules and safeguards for the issue of its stock as hereinbefore provided.

The stock to be issued shall all be issued as full-paid stock, and the corporation to be formed hereby shall be liable for and bound to pay all the debts, dues and obligations of the corporations parties hereto.

6th. The first regular annual meeting of the stockholders of said consolidated company, for the purpose of electing directors and officers of the said consolidated company for the year then next ensuing, shall be held on the first Tuesday after the fourth of July, in the year 1884, at a time and place to be designated by the board of trustees.

In witness whereof the said parties of the first and second parts have caused these presents to be sealed with their corporate seals, their respective corporate names to be hereto set in execution thereof by their respective
 [L. s.] presidents, and attested by their respective secretaries, the day and year first above written.

PATRICK J. GLEASON,

President Long Island City and Calvary Cemetery Railroad Company.

JOHN H. COURTNEY, *Secretary.*

ISAAC BUCHANAN,

[L. s.] *President Long Island City and Maspeth Railroad Company.*

A. RAPELYE, *Secretary.*

The undersigned, secretary of The Long Island City and Calvary Cemetery Railroad Company, hereby certifies that at a meeting of the stockholders of the said The Long Island City and Calvary Cemetery Railroad Company, held at their office, No. 2 Front street, in Long Island City, due notice of the time and place of holding said meeting and the object thereof being given to the stockholders of said company, the within joint agreement for the consolidation of the said The Long Island City and Calvary Cemetery Railroad Company and The Long Island City and Maspeth Railway Company and their railroads, were, in pursuance of the notice aforesaid, submitted to the stockholders of the said The Long Island City and Calvary Cemetery Railroad Company for their consideration and action thereon, and that a vote by ballot was taken for the adoption or rejection of the same; that five hundred and ninety-seven votes were cast, the whole of which five hundred and ninety-seven votes were for, and in favor of, the adoption of said agreement, being upward of, and more than, two-thirds of all the votes of all the stockholders.

That thereupon the said agreement of consolidation was declared to be adopted.

In witness whereof I have hereunto set my hand, together with the corporate seal of the said "The Long Island City and Calvary Cemetery Railroad
 [L. s.] Company," as required by law.

JOHN H. COURTNEY,

Secretary of The Long Island City and Calvary Cemetery Railroad Co.

The undersigned, secretary of the Long Island City and Maspeth Railway Company, hereby certifies that at a meeting of the stockholders of the said The Long Island City and Maspeth Railway Company, held at their office, No. 2 Front street, in Long Island City, due notice of the time and place of holding said meeting and

the object thereof being given to the stockholders of said company, the within joint agreement for the consolidation of the said The Long Island City and Maspeth Railway Company and The Long Island City and Calvary Cemetery Railroad Company and their railroads, were, in pursuance of the notice aforesaid, submitted to the stockholders of the said The Long Island City and Maspeth Railway Company for their consideration and action thereon, and that a vote by ballot was taken for the adoption or rejection of the same. That three thousand nine hundred and seventy-nine votes were cast, the whole of which three thousand nine hundred and seventy-nine votes were for, and in favor of, the adoption of said agreement, being upwards of, and more than, two-thirds of all the votes of all the stockholders.

That thereupon the said agreement of consolidation was declared to be adopted

In witness whereof I have hereunto set my hand, together with the corporate seal of the said The Long Island City and Maspeth Railway Company,

[L. S.] as required by law.

AUGUSTUS RAPELYE,
Secretary of the Long Island City and Maspeth Railway Company.

Indorsed :

THE LONG ISLAND CITY AND CALVARY CEMETERY RAILROAD COMPANY AND THE LONG ISLAND CITY AND MASPETH RAILWAY COMPANY.

Agreement of consolidation under the name of The Long Island City and Newtown Railroad Company.

STATE OF NEW YORK, }
OFFICE OF THE SECRETARY OF STATE. }

Filed and recorded August 28, 1888.

ANSON S. WOOD,
Deputy Secretary of State.

Fourth. As to the condition of the cars and the quality and condition of the animals used in the transportation of passengers and the condition of track and road-bed.

The road is a double track line laid in the center of Borden avenue, from Vernon to Bradley avenues, and thence a single track along Bradley avenue to Green Point avenue and entrance to Calvary cemetery.

At Vernon avenue a junction is made, and tracks used of the Steinway and Hunter's Point railroad, along Borden avenue to the Thirty-fourth street ferry slips fronting on East river. A piece of track is laid from Borden avenue along Front street to Third street, a portion of which is used for storing cars, and there is a short side track at the cemetery terminal.

The total length of road now owned and operated from Vernon to Green Point avenues is about one and two-fifths miles, and the portion of the Steinway railroad operated jointly is about one-fifth of a mile, making a total length of road owned, leased and operated by the Long Island City and Calvary Cemetery Railroad Company one and three-fifths miles.

Borden avenue is paved with block stone as far south as the draw-bridge over the Dutch Kills canal; the remainder of the track is laid upon and along the center of an ordinary earth roadway.

The superstructure is laid with flat iron street rails where the street is paved, and also along Bradley avenue a distance of one-fifth mile.

The general construction of the superstructure is not as permanent in character and condition of maintenance as generally found on surface roads. Ties are widely spaced, and flat rail not thoroughly secured to longitudinal timbers, and the line and surface imperfect. South of the draw bridge, upon the earth road-bed, the track is laid with light T rails, secured at ends with fish plate, many of which are omitted, causing the ends to form an uneven vertical joint.

From the crossing of the Long Island railroad to Bradley avenue, Borden avenue is a roadway raised up about eight feet above the low flat lands bordering the Dutch Kill and Newtown creek, and the portion of the avenue south of the canal is being raised each year, requiring a corresponding raise of superstructure, which may account in part for the imperfect condition of that portion of the tracks; no serious inconvenience can be experienced, however, as the cars have good, easy springs, and they ride the rail fairly well; yet a thoroughly constructed, lined and surfaced superstructure would add to the comfort of passengers, and insure greater speed at less outlay of power.

At Calvary cemetery, no separate waiting-room is provided, those in hotels being used. At the northerly terminal the covered way and waiting-rooms of the ferry are conveniently near, and afford protection in inclement weather.

The company have lately secured a piece of ground on Third street, and have erected a small wooden building for the storing, repairing and construction of cars, in which was noticed one close passenger and three open excursion cars in course of renovation, and two excursion cars being constructed. In connection with the railroad a livery stable has lately been merged, and about twenty horses were seen, some of which were fair-looking animals, and presumably the better ones are used in the livery and the poorer for every-day use on the cars. The horses being used on the two passenger cars running at time of inspection were quite poor, one of them very lame and the other had seen long service. Three second-hand passenger cars have lately been purchased, and will be renovated. The cars in use, two in number, are of the old style Stevenson manufacture, seating twelve passengers. They have seen much use, are dingy in appearance, and the cleaning of the bottom of them neglected. More care should be taken to clean the floors below the foot slats at least once a day, and oftener if required. In a word, the road decidedly needs improvement in all its departments, and if accomplished, would add to its revenue and to public convenience.

During the morning hours the cars run half hourly each way; later in the day, if travel requires, additional cars are run, particularly during the summer months.

Saturday afternoons and Sundays cars are more frequent, and if required, connection is made with each trip of the ferry boats.

As stated by Mr. Gleason, the president of the road, an extension of the line is contemplated this year, commencing at the present terminal at Calvary cemetery and running easterly along Green Point avenue to Borden avenue, thence south-easterly along Borden avenue and accessible highways to Winfield, adding about one and one-half miles to length of road.

The Board has not been able to obtain further information for the use of your honorable body within the time allowed, owing to its ina-

bility to obtain access to any books, accounts or vouchers as stated. Such further information, if desired, can only be obtained through the examination of witnesses, and an investigation which will occupy some considerable time.

The Board recommends that the defects hereinbefore pointed out in the construction, equipment and operation of the road be remedied. The Board cannot determine what, if any, change ought to be made in the rates of fare, without further investigation of the road, its condition and business.

[L. S.]

By the Board.

WILLIAM C. HUDSON,
Secretary.

V.

REPORT OF THE BOARD OF RAILROAD COMMISSIONERS IN ANSWER TO THE ASSEMBLY RESOLUTION OF MARCH 9, 1885, ASKING FOR AN OPINION ON BILL BEFORE THAT BODY IN RELATION TO THE RESPONSIBILITY OF RAILROAD COMPANIES FOR FIRES CAUSED BY LOCOMOTIVE ENGINES.

To the Honorable the Assembly of the State of New York :

On March 9, 1885, the Board of Railroad Commissioners received the following resolution from your honorable body :

"STATE OF NEW YORK. }
"IN ASSEMBLY, }
"ALBANY, March 9, 1885. }

"*Resolved*, That the Railroad Commissioners be requested to furnish to the Assembly, within seven days, an opinion upon the Assembly bill introduced by S. S. Hawkins, introductory number 692, entitled "An act to establish the responsibility of railroad corporations for damages by fires communicated from their locomotive engines. By order.

"C. A. CHICKERING, *Clerk.*"

Attached thereto is the following bill :

AN ACT to establish the responsibility of railroad corporations for damages by fires communicated from their locomotive engines.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

SECTION 1. Every railroad corporation shall be responsible in damages to any person or corporation whose buildings or other property may be injured by fire communicated, directly or indirectly, by its locomotive engines, and shall have an insurable interest in the property upon its route for which it may be so held responsible, and may procure insurance thereon in its own behalf.

§ 2. This act shall take effect immediately.

Under the decisions in the State of New York, railroad companies are not liable for damages caused by fire set by their locomotives, unless guilty of negligence in the construction or operation thereof. (*Fero v. Buffalo and State Line R. R.*, 22 N. Y. 209; *Field v. N. Y. C.*, 32 id. 339; *Ryan v. N. Y. C.*, 35 id. 210.)

Such a statute as is proposed has been in force in Massachusetts since 1840.

In a long line of decisions it is commended as being in accordance with sound public policy. (13 Metcalf, 99; 98 Mass. 414; 103 id. 583; 4 Cush. 288; 16 Gray, 71; 2 Allen, 331; 4 id. 438.)

In *Ross v. Boston and Wor. R. R.*, 6 Allen, 90, BIGELOW, C. J., says :

"It is not a penal statute, but purely remedial in its nature; and it is to be interpreted fairly and liberally, so as to secure to parties injured an indemnity from those who reap the advantages and profits arising from the use of a dangerous mode of locomotion by means of which buildings and other property are destroyed."

In *Meacham v. Fitchburg R. R.*, 4 Cush. 291, DEWEY, J., says :

"We consider this provision of the statute of 1840, chap. 85, as one of those general remedial acts passed for the more effectual protection of property against the hazards to which it has become subject by the introduction of the locomotive engine. The right to use the parcel of land appropriated to a railroad does not deprive the Legislature of the power to enact such regulations, and impose such liabilities for injuries suffered from the mode of using the road as the occasion and circumstances may reasonably justify."

Under the Massachusetts act the railroad is held liable for damages whether communicated directly by the locomotive, or whether indirectly by a fire set by the locomotive. The railroad is liable to all whose property is damaged to the end of the conflagration originally set by a locomotive. (*Perley v. Eastern R. R.*, 98 Mass. 414.)

Ryan v. N. Y. Central, 35 N. Y. 210, holds that a railroad which sets a fire through negligence is only liable to the owner of the property which catches fire directly from the locomotive, and is not liable for the damages caused by the spreading of the fire to the property of more remote owners. The case is somewhat questioned in late decisions. (See *Pollett v. Long*, 56 N. Y. 206, and *Webb v. R. W. & Ogdensburgh R. R. Co.*, 49 id. 427.) The doctrine laid down in *Ryan v. N. Y. Central* seems to be generally disproved in the United States courts and in other States. In view of this case, however, it would be well to insert after the word "communicated" in the proposed statute, the words "directly or indirectly." The proposed statute thus amended would enact into law the Massachusetts statute as there construed by the courts.

The provisions giving to railroads an insurable interest in property for which they may be held responsible is ample to enable railroads to protect themselves against any disastrous results to them financially under the statute.

In view of the fact that such a statute has been tested for forty-five years in Massachusetts, it may safely be assumed that the liability imposed is not unduly onerous upon railroads.

The change in the law as proposed would tend to make our railroads more careful about setting fires and much more active in aiding to extinguish them when started.

The Board is therefore of the opinion that the proposed act is wise and just. By the Board.

WILLIAM C. HUDSON,
Secretary.

COMPLAINTS

OF CITIES, TOWNS, ASSOCIATIONS, INDIVIDUALS, ETC.

I.

JOHN B. RUSSELL OF NAPANOCK *v.* THE NEW YORK, ONTARIO AND WESTERN RAILWAY COMPANY.

November 12, 1884.

Napanock is a town of 400 inhabitants about two miles from Ellenville, the northern terminus of the Ellenville branch of the New York, Ontario and Western railway.

Mr. John B. Russell, in his complaint, alleges that he is a manufacturer of edge tools; that his freights amount to from 100 to 200 tons per year, by canal and railroad; that the freight rates of the New York, Ontario and Western railway to Ellenville are exorbitant and oppressive; that he is charged twenty-eight cents per 100 pounds for his manufactures from Ellenville to New York, and the same for the raw material, etc., from New York to Ellenville, a distance of about 100 miles; that in consequence of these charges he has drawn his goods by team to the Erie road, at Middletown, a distance twenty-six miles.

He further alleges that "there are other parties who do not freight near as much as he does who get lower rates. Because he does not give them all his freighting business they charge him more than others."

This he claims is very "trying," inasmuch as the town was bonded for \$249,000 to build the railroad.

The road, in its reply, states that twenty-eight cents per 100 pounds is the regular second-class rates which govern shipments of edge tools in small lots, such as Mr. Russell would ship, and the same rate would apply to all shippers. Mr. Anderson, the freight agent of the road, further states that Mr. Russell is in error when he says "other parties get lower rates on this class of goods. * * * I wish to say further that I do not believe Mr. Russell or any other shipper has hauled one pound of freight to Middletown for shipment *via* Erie railway, and if I desire it I will ascertain the facts from that company. The teaming dodge is absurd." Mr. Anderson also states that Mr. Russell does

not give the railroad a pound of freight when the canal can be used; that he (Russell) applied for special rates some time ago, and that he was told that if he would contract to ship *exclusively* by the railroad the year round his proposition would be considered. This Mr. Russell refused to do, since which nothing more had been heard from him.

A public hearing was had at Albany on October fourteenth, at which Mr. Russell presented his own case, and the railroad was represented by John B. Kerr, Esq., counsel, and Mr. J. C. Anderson, general freight agent.

From the testimony of Mr. Russell and the admissions of Mr. Anderson, it appeared:

First. That Mr. Russell had been charged twenty-eight cents on manufactured goods shipped from Ellenville to New York, and also in some cases the same price for raw material shipped from New York to Ellenville. The latter charge, viz.: twenty-eight cents for raw material from New York to Ellenville, Mr. Anderson admitted, was an overcharge, and stated would have been rectified had Mr. Russell drawn his attention to it.

Second. It was admitted by Mr. Anderson that Mr. Russell did team his goods to Middletown and bring back his raw material, a distance of twenty-six miles, rather than send them by the railroad at a charge of twenty-eight cents per 100 pounds.

Third. It was testified by Mr. Anderson that shippers agreeing to send all goods exclusively by rail were given rates as follows:

	First.	Second.	Thrd.	Fourth
From April 1 to October 31	28 cents.	23 cents.	18 cents.	16 cents.
From November 1 to March 31.....	30 cents.	24 cents.	20 cents.	18 cents.

Whereas to shippers who did not agree to the exclusive contract, the rates were:

First.	Second.	Thrd.	Fourth.
33 cents.	25 cents.	24 cents	21 cents

Fourth. It appears that special contracts were made between the railroad and shippers marked *private*, by which special rates were given on the basis of exclusive shipments by railroad. That a clause in these printed contracts exempted the railroad, in consideration of special rates, from all liability for damages to or loss of said freight. A clause at the bottom states "this contract is strictly private, and the party with whom it is made must not show it or state its terms." The freight agent informs the Board, however, that the clause exempting the road from damage for "loss of said freight" is always left out (presumably total loss, as the clause exempting from damage is left in).

Fifth. It was admitted by Mr. Anderson that these special contracts were made with parties at rates quite different from even the supposed *regular* exclusive contract rates as given above, namely, twenty-six, twenty-three, eighteen and sixteen cents in summer, and thirty, twenty-four, twenty and eighteen in winter. In other words, any rates are made that can be agreed upon between the shipper and railroad regardless of what others may be charged, and a special instance is given, that of rates made to Dwight Devine, a competitor of Mr. Russell, the complainant, and, in the opinion of the Board, clearly showing an unjust discrimination against the latter.

It will be seen from the above that the New York, Ontario and Western railway, in imposing freight charges, disregards at least three principles which the Board has pronounced fundamental in its opinions in similar cases on other roads, viz. 1st. That rates should *not* be based on exclusive shipment contracts. 2d. That rates should not be *secret* or *private*. 3d. That rates should be the same to all for like service under like circumstances.

The Board does not consider it necessary to again repeat here the reasons which have led it to arrive at the above-mentioned principles, but refers the road to its public utterances, as follows: First Annual Report to Legislature, p. 17; idem, p. 23. *G. A. Streeter & Bro. v. Fonda, Johnstown & Gloversville Railroad*. Appendix to First Annual Report, p. 75. Special report to the Legislature on the *pro rata* freight bill. Cases of citizens against the Utica and Black River railroad.

The determination of the case in point is somewhat complicated by the fact that Mr. Russell admits that he has a special rate with the New York, Lake Erie and Western, from Middletown, which he declines to make known, except under compulsion. The Board did not insist upon his divulging the rate, as the information did not seem necessary in a determination of the question at issue, but assumes that he was probably obliged to make the rate to protect himself.

CONCLUSIONS AND RECOMMENDATIONS.

For reasons, therefore, given in similar cases heretofore, the Board recommends:

First. That the New York, Ontario and Western abolish all the private contracts on the exclusive basis principle.

Second. That the road adopt a printed tariff of classification and rates, which shall be the same to all under like circumstances; the rate varying as the goods are shipped in car lots, less than car lots, or single packages.

Third. That if special rates be given to any mining, agricultural or manufacturing *industry* at any point, that the same rates be given or offered to all engaged in that industry, regardless of whether the manufacturer or producer agrees to ship exclusively by the railroad or not.

Fourth. To make these recommendations specific to the case of the complainant, the Board recommends that Mr. Russell be given or offered the same rates as those given Mr. Dwight Devine or any other competitor in the same branch of business, regardless of any agreement to ship exclusively by the railroad.

By the Board.

WILLIAM C. HUDSON, *Secretary*.

On December 3, 1884, the company notified the Board that its general freight agent had established a rate in conformity with the recommendations of the Board.

II.

PETITION OF CITIZENS OF HAVERSTRAW, ROCKLAND COUNTY, FOR
A STATION ON THE NEW YORK, WEST SHORE AND BUFFALO RAIL-
WAY NEARER TO THE VILLAGE.

December 1, 1884.

The decision and recommendation of the Board in the above entitled case was presented in the last annual report of the Board (p. 192), and at the time of such presentation, the company had not determined whether it would comply with the recommendations. Subsequently, and after the beginning of the current fiscal year, the Board transmitted a statement of the failure of the company to comply with the requirements of the Board, together with the facts in the case, to the Attorney-General for his consideration and action. Under the measures taken by that official the company complied, and on April 21, the president of the village, Mr. R. A. Vervalen, notified the Board, that a station was built at the point indicated by the Board, and that five trains each way were stopping daily.

III.

JOHN E. KEMP AND OTHERS, STOCKHOLDERS, v. THE ROME,
WATERTOWN AND OGDENSBURGH RAILROAD COMPANY.

December 3, 1884.

The following facts are established before the Board :

During 1833, and subsequent thereto, the Watertown and Rome railroad was constructed from Rome to Watertown, and thence to Cape Vincent, under chapter 173 of the Laws of 1832.

In its charter it was provided "*that the place of doing business by said corporation shall be in the village of Watertown.*" Under chapter 260 of the Laws of 1860 the property of the Potsdam and Watertown railroad was acquired, and the name changed to the Rome, Watertown and Ogdensburgh Railroad Company.

In 1863 the Rome, Watertown and Ogdensburgh Railroad Company leased, in perpetuity, the Oswego and Rome railroad, which at Richland formed with it a continuous line between Oswego and Rome, and which at Oswego terminated east of the Oswego river.

In 1875 the Rome, Watertown and Ogdensburgh Railroad Company consolidated with the Syracuse and Northern railroad, extending from Syracuse to Sandy Creek, there forming a continuous line with it northward; also with the Lake Ontario railroad, a reorganization of the Lake Ontario Shore railroad, whose line began on the west side of the Oswego river, and extended thence westerly to the Niagara river.

This consolidation purported to be made under the provisions of chapter 917 of the Laws of 1869, which then provided :

"It shall and may be lawful for any railroad company or other corporation organized under the laws of this State, * * * and operating a railroad or bridge, * * * to merge and consolidate its capital stock, franchises and property with the capital stock, franchises and property of any other railroad company, or companies, organized under the laws of this State, * * * whenever the two or more railroads of the companies or corporations so to be consolidated shall or may form a continuous line of railroad with each other, or by means of any intervening railroad bridge or ferry."

As amended, in 1881, the latter part of the section reads:

"Whenever the railroads or branches, or any part of the railroad or branches of the companies or corporations so to be consolidated shall or may form a continuous or connected line of railroad with each other, or by means of any intervening railroad bridge or ferry."

At the time of the consolidation there was no railroad bridge at Oswego connecting the Lake Ontario railroad and the leased Rome and Oswego road. There were ordinary street bridges over which the traffic was carried by wagon; and there was in contemplation a railroad bridge by which the roads might be, and soon thereafter, were connected.

Prior to 1872 the general officers of the company had their offices at Watertown, and the general repair shops were likewise there located. Since that time, and especially since the consolidation, they have been removed elsewhere. There now remains at Watertown an assistant secretary, whose duties are merely formal, and the original repair shops in which repairs are made and men are employed to a greater extent than during the early history of the road.

The complainants, as stockholders of the Rome, Watertown and Ogdensburgh railroad prior to the consolidation, allege that these facts disclose violations of laws and of charter obligations which, upon being formally called to the attention of this Board, ought, in their interest, to be reported to the Attorney-General of the State.

It is, in the first place, claimed that all of the charter obligations of the constituent companies are by law imposed upon and to be assumed and discharged by the consolidated company. This is true, subject to such modifications as are explicitly expressed in the Consolidation Act, or as are necessarily to be implied, in order to give full effect to the provisions thereof. The provision fixing Watertown as "the place of doing business by said corporation" cannot properly be so narrowly construed as to have prohibited the Watertown and Rome railroad from having its general offices, repair shops, superintendents, etc., located wherever they might from time to time be most convenient for the transaction of the company's business. To assert that Watertown money and energy built the road, relying in whole or in part upon the construction of this provision maintained by complainants, is an assumption of fact unsustained by evidence before the Board. Were this claim well founded it would by no means follow that the courts would give other than a usual and reasonable construction to this provision. The success of the corporation, as well as the convenience of the public, require that a road should be permitted to have its shops, offices, etc., wherever they may be most convenient for the transaction of the business to be therein done. Such provisions in

charters are intended to fix the legal residence of the corporation for purposes of taxation, etc.; but the Board does not find any authority for such a construction thereof as is insisted upon by the complainants. Much less can it be claimed that this provision in the charter of a constituent company is to be extended so as to permit no location of the general offices, shops, etc., of the consolidated company, except at Watertown.

The validity of the consolidation is attacked upon several grounds:

First. Did the railroads of the Rome, Watertown and Ogdensburgh and the Syracuse and Northern railroads run on parallel or competing lines? If so, the act of 1869 forbids their consolidation, and no proceedings taken by them under the act could legally effect a consolidation. The Board does not believe that the limited competition existing between the roads between Pulaski and Sandy Creek constituted such a competition as prevented consolidation. To be parallel or competing within the meaning of the act is held by the courts to mean that they are parallel or competing in a broader and more general sense than this. (*People v. B. and H. T. R. R.*, 12 Abb. N. C. 230.)

Second. The statute reads that consolidation may take place "whenever the two or more railroads so to be consolidated shall or may form a continuous line of railroad with each other, or by means of an intervening railroad bridge or ferry."

The complainants insist that the requisite conditions herein stated did not exist. The Syracuse and Northern intersected the Rome, Watertown and Ogdensburgh at Sandy Creek, a point about midway between Rome and Ogdensburg. The roads formed continuous lines between Syracuse and Rome, and between Syracuse and Ogdensburg. Is this sufficient under the statute as it stood in 1875? While the question is not free from doubt, yet the Board inclines to the opinion that this is not sufficient to satisfy the statute. The design of the statute seems to have been to permit consolidation in cases where a car moving in one direction should or might pass over the main line of each company taken into the consolidation.

It is doubtful whether two railroads are continuous in the sense used when a part of one forms with a part of the other, or with the whole of the other, a continuous line. The statute seems to require that the whole of the main line of each railroad shall be a link in the chain of continuity. The Syracuse and Northern intersected the Rome, Watertown and Ogdensburgh at about its center, and hence it could not form with the entire Rome, Watertown and Ogdensburgh main line a continuous road, as the Board understands the statute. To say that it formed two continuous lines, one to Rome and one to Ogdensburg, does not, we think, meet the requirements of the statute.

The amendment of the statute in 1881, hereinbefore set out, by which roads are permitted to consolidate when connected, is urged by the road to be a legislative construction or declaration of the meaning of the act of 1869. While there may be doubt about this, it is not probable that the State would undertake to undo a consolidation because of such a defect, when it is quite plain that under the statute, as since amended and now existing, the same precise consolidation could be again effected.

The consolidation with the Lake Ontario railroad was subject to the same objections as are above stated with reference to the Syracuse and Northern railroad. Additional grounds of invalidity are also urged.

The complainants insist that the statute contemplates that all the companies whose lines form a part of the chain of continuity must unite in the consolidation through their owners.

Between the Rome, Watertown and Ogdensburgh at Richland, and the Lake Ontario railroad at Oswego, there lay the Rome and Oswego railroad, leased for the term of its charter to the Rome, Watertown and Ogdensburgh.

The complainants insist that this lease did not constitute in the Rome, Watertown and Ogdensburgh railroad such an ownership as to permit of its being included in the consolidation, and unless so included a vital requirement of the statute was wanting, to-wit: continuity or even connection in the consolidated line. Such a lease invests the lessee with many of the attributes of ownership. The question is, does it carry with it a right to consolidate the leased line? Under the Consolidation Act, the railroads whose lines enter into and form a part of the consolidated system are to be parties to the agreement. The agreement is to be made by the directors of the companies proposing to consolidate. It is to be submitted to and approved by the stockholders of each company. The stock of each company is to be converted into the stock of the consolidated company. The entire management of each line passes into the control of the board of the consolidated company. Now, it is not pretended that any such proceedings were had by the directors or stockholders of the Rome and Oswego road. Without such action, how could the road become part of the consolidation? The statute points out no other way. It makes no provision permitting action by the lessee road to stand in lieu of the above-mentioned proceedings.

The case of *The State v. Vanderbilt* (8 Am. and Eng. R. R. cases, 675) tends strongly in favor of the position of the complainants upon this question.

The railroad, however, insists that the Ohio case cited is not applicable because of the words in our statute, "by means of any intervening railroad bridge or ferry." This should be read, it is argued, with a comma after "railroad." So read, railroads can consolidate "whenever they shall or may form a continuous line with each other by means of an intervening railroad." The Board doubts the correctness of this reading, though the railroad has some ground to claim it, from the fact that in the original law on file in the office of the Secretary of State there is a comma after railroad. In the printed session laws, however, none appear.

It would seem more reasonable, and more in accordance with conditions existing upon some of our railroads in 1869, to construe the statute with a comma after "bridge," and not after "railroad." It would then read, "whenever the two or more railroads of the companies or corporations so to be consolidated shall or may form a continuous line of railroad with each other, or by means of any intervening railroad bridge, or ferry."

Here the words have a use and a meaning which is clear and is well known to have met conditions existing among railroads desiring to

consolidate in 1869, notably the New York Central and Hudson River railroad at Albany. Were it not for the action of the Legislature in 1877, hereinafter noted, which the Board construes to be a legislative confirmation of the consolidation, so far as such a defect is concerned, the Board could reach no other conclusion than that the consolidation proceedings here lacked a condition required by the act of 1869, even as amended in 1881.

Another objection made to the consolidation is, that in 1875 there was no existing railroad bridge or ferry across the Oswego river at Oswego, and hence that the railroads consolidated did not form a continuous line "by means of an intervening bridge." The facts as to this have been stated.

Reading the statute according to the railroad's contention, it sufficed that there was a common highway bridge across which traffic could be exchanged by wagon. This view of the statute has been disposed of. What the statute calls for is a "railroad bridge." Another view is to read the statute thus: "Whenever the two or more railroads so to be consolidated shall or *might* (giving to "may" this meaning) form a continuous line of railroad with each other, by means of an intervening bridge or ferry."

"Shall" refers to a bridge existing at the time of consolidation. It is difficult to give to "may" any other meaning than as indicated. It follows that a consolidation is not invalid if, at the time of its consummation, the continuity of lines is complete with the exception of a railroad bridge contemplated, and which, when constructed, will unite the lines. A railroad bridge was immediately constructed at Oswego for that very purpose, and has since been used in the consolidated line.

If it be conceded that some of the conditions required by the act of 1869 were wanting, and hence that the consolidation was technically unauthorized, there is yet another view which seems to the Board to dispose of the case adversely to the complainants, so far as the State is concerned. We do not stop to discuss as to whether these stockholders who now complain are estopped by their alleged votes in favor of the consolidation, or by their long acquiescence therein from questioning the validity of the proceedings. Were the question before this Board one to be decided between the stockholders and the corporation these facts might have weight, but such is not the case. The issue here is between the State and the corporations, and no consent on the part of stockholders estops the State from declaring a corporate act to be illegal.

A conclusive answer to all that is alleged against the validity of the consolidation proceedings, in the opinion of the Board, is that the State, since the attempted consolidation, has confirmed and recognized the legal existence of the consolidated company. It is settled that such confirmation or recognition cures defects of such a character as those indicated. This may be done by direct confirmatory legislation, or by legislation in which the validity of the consolidation is assumed and recognized as a basis for further legislation.

White v. Coventry, 29 Barb. 305; *B. R. and N. R. R. v. Barnard*, 31 Id. 253; *White v. Rose*, 15 Abb. Pr. 66; *People v. Manhattan Co.*, 9 Wend. 351; *People v. Phoenix Bank*, 24 Id. 481; *Elevated R. R. Matter*, 70 N. Y. 327.

There has been no legislation directly confirmatory, but of the second class we find chapter 453 of the Laws of 1877. This act, passed two years after the consolidation, authorized the Rome, Watertown and Ogdensburgh Railroad Company to subscribe for stock in the Oswegatchie Bridge Company, and to issue stock and bonds in payment for the same. Under the decisions, this act of the Legislature recognizing the consolidated company as having a legal existence, passed two years after the consolidation went into effect and operation, cured the defects, and waived any penalty incurred by the corporation consolidated. The State is to be deemed to have had notice of the defects pointed out in the consolidation at the time of passing the act of 1877, because the charters of the constituent companies and of the Rome and Oswego road, and the consolidation proceedings, were all on file in the office of the Secretary of State. These disclosed on their face that the Rome and Oswego road did not consolidate; that there was no connection or continuity between the Rome, Watertown and Ogdensburgh and the Lake Ontario railroad, and that the Rome, Watertown and Ogdensburgh and the Syracuse and Northern were not continuous in the sense required by the Consolidation Act, strictly construed. The same facts substantially appear in 1875 and 1876 in the annual reports made to the State Engineer and Surveyor.

Again, since the duty imposed upon the Board of reporting to the Attorney-General such violations of law as are here alleged is discretionary, it is proper that the Board should give weight to some other considerations. It is not proved that any public interest has suffered by reason of the consolidation. On the contrary, it is believed that a better, more convenient and extended service has been given to the public by the consolidation than was given by the roads acting separately. The fact that but 283 shares of stock, out of a total of 100,000 shares, make this application, would seem to indicate that even among the stockholders the desire for such action as is here sought is limited. Nine years after a consolidation has gone into effect and operation the State ought not, without serious cause, to attack the validity of the proceedings, and thereby to seriously disturb securities and financial conditions which have been the outcome of the consolidation and of the management thereunder.

It follows, from these views, that in the opinion of the Board the application should be denied, and it is so ordered.

By the Board.

WILLIAM C. HUDSON,
Secretary.

IV.

MRS. A. R. WALES, BY J. WALES, *v.* THE NEW YORK, ONTARIO AND WESTERN RAILWAY COMPANY.

December 5, 1884.

Mrs. Wales by her agent Mr. J. Wales complained that the New York, Ontario and Western Railroad Company charged her a rate of \$1.07 per net ton of coal and her neighbors and competitors but \$1.00

per gross ton, from Middletown to Liberty. This complaint was transmitted to company and its reply was that "the rate from Middletown to Liberty on coal shipped by the Lehigh Coal and Navigation Company, F. A. Potts & Co., agents, was \$1.00 per ton, and on Pennsylvania coal \$1.07 per ton. This difference in rates was made to induce the Lehigh company to send coal to points on the Ontario and Western road, and was made for the reason that the Lehigh coal costs more at Middletown than the Pennsylvania coal, and by making this slight difference in the rate the Lehigh company was induced to send coal into that territory."

A copy of this answer was transmitted to Mrs. Wales, with the request that such reply as she desired to make, should be made within ten days. She seems to have been satisfied with the answer of the company, for she made no further reply to the Board.

V.

E. D. NORTHRUP *v.* THE ROCHESTER AND PITTSBURG RAILROAD COMPANY.

December 9, 1884.

Mr. Northrup complained in August, 1884, of the condition of the track of this company deeming it unsafe, alleging that while the rails were new steel, the ballasting was incomplete, the rails down at the ends and much out of line. He further complained that the section gangs had been cut down to three laborers and a foreman, declaring this small number to be wholly inefficient.

A second ground of complaint Mr. Northrup found in a recent change of time table so that travelers from Ellicottville, where Mr. Northrup resided, would not connect at the junction of the Buffalo branch, four and one-half miles east of that village in the morning. The train destined for Rochester passed Ellicottville at 8:59 A. M.; the train bound for Buffalo, left the junction at 5:55 A. M., so that while Buffalo was but fifty-two miles distant from Ellicottville, it could not be reached until the evening.

The Board transmitted this complaint to the company which replied in September that there was no doubt but that the road-bed between Salamanca and Rochester required considerable repairs and that while it was true that the section gangs had been reduced to three they had on the first of September been increased to seven in order to ballast the road properly. With regard to the change of time table, the company said, that their time table was arranged with a view of accommodating the needs of the greater number of its patrons. The greater number desired to reach Salamanca in time for the N. Y. P. & O. for points south and west. From the west the major portion desired connection with trains from Buffalo, going north and east and that it would not pay to run a special train to Ellicottville to connect with the Buffalo train.

In dealing with that part of the complaint which referred to the change of time table, the Board proposed, that the train which on its

nightly return from Buffalo laid over all night at Ashford junction should back down to Ellicottville so as to leave the latter place at 5:45 A. M., and yet be able to leave Ashford junction at 5:55 A. M., or ten minutes later. This the company to the satisfaction of the people of Ellicottville did.

As to the condition of the track, the Board caused a careful inspection to be made, with the result of finding that though generally the road was in good condition, and that considerable improvement had been made since the previous inspection and was still being made, yet considerable ballasting was necessary and that improvements in certain specified bridges, trestles and cattle-passes were needed. These were pointed out and the road required to make the repairs needed. This has been done, the complainant expressing satisfaction with the result.

VI.

PETITION OF CITIZENS OF HANCOCK, DELAWARE COUNTY, *v.* THE NEW YORK, ONTARIO AND WESTERN RAILWAY COMPANY.

December 20, 1884.

This was a petition of citizens of Hancock, Delaware county, headed by Messrs. Fisk and Crary, alleging that the New York, Ontario and Western Railway Company in rates on flour, feed and grain discriminated against Hancock in favor of the village of Walton, as shown in the following table:

	From Walton.		From Hancock.	
	Miles.	Rate cwt.	Miles.	Rate cwt.
Fisher's Eddy.....	26	9 cents.	6	14 cents.
East Branch.....	30	10 cents.	10	15 cents.
Coole's Falls....	38	11 cents.	18	16 cents.

The reply of the company was that Hancock, being a competing point with the Erie, took New York rates, while the rates to Walton were the New York rates with an arbitrary added; that in the October prior the schedule was changed so that Hancock paid the same rates as Walton. However, the company, on the second of December, changed the rates so that they are now as follows:

	From Walton.		From Hancock.	
	Miles.	Rate cwt.	Miles.	Rate cwt.
Fisher's Eddy.....	26	14 cents.	6	9 cents.
East Branch.....	30	15 cents.	10	10 cents.
Coole's Falls....	38	16 cents.	18	11 cents.

This was satisfactory to the complainants.

VII.

GEORGE L. PRATT *v.* THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY.

December 19, 1884.

Mr. Pratt alleged that he sends annually over the line of the New York Central and Hudson River railroad five thousand gallons of wine, and complained that in transmission kegs were tapped, whereby he suffered loss and damage; that he had put in a claim for damages, but had failed to receive consideration from the company. These facts having been transmitted to the company by the Board, after some delay, during which the company was endeavoring to ascertain whether the damage occurred on its line or a connecting one, the company adjusted the claim, and on December 19, 1884, Mr. Pratt informed the Board he had received the full amount of his claim.

VIII.

A. D. AND R. D. FOOT, R. J. RICHARDSON & Co., R. F. MURRAY & Co., MURRAY, FOOT AND OTHERS *v.* THE UTICA AND BLACK RIVER RAILROAD COMPANY.

December 23, 1884.

Commissioner KERNAN.—On September 23, 1884, the Board issued its second report herein, in which it said :

"After public hearings and due consideration of the evidence and arguments presented, this Board on March 12, 1884, made certain recommendations and decisions in the above entitled matters:

"On June 25, 1884, after much delay, caused, as alleged, by the road, by circumstances which it could not control, the road presented an answer thereto, in which it claimed the conclusions reached by the Board to be founded upon erroneous statements, or faulty deductions and inferences from conceded facts, and requested a reversal or modification of the same, and in the mean time asked to be excused from arriving at final conclusions on the questions involved. The Board has, since the reception of the answer, given several hearings, at which some further evidence has been received: members of the Board have likewise sought information upon some of the questions presented, in order that entire justice may be done to all concerned.

"The recommendations of the Board as modified, are these:

"First. That R. F. Murray & Co. be given a twenty-five cent rate. That J. P. Babcock, of Boonville, be given an eighteen cent rate

"Second. That the road shall not hereafter impose, as a condition for special rates of freight, that the party accepting such contract shall ship by no other route or canal.

"Third. That freight rates, generally, to and from Lowville and other points south of Watertown, to Utica, shall not be more than is charged from Watertown to Utica, or to points north from Utica, no more than from Utica to Watertown, as the case may be

"Fourth. That the cheese rate from Lowville shall be twenty cents, and shall continue to bear the same relation to the Watertown winter rate as twenty does to twenty-five

"*Res.* That the company take into consideration the advisability of making the Boonville rate fifteen cents and the Carthage rate twenty cents on cheese to Utica

"I concur in the above conclusions.

"J O'DONNELL, *Commissioner*.

"I concur in the second recommendation, adhering to my former report as to that and the other recommendations.

"WILLIAM E. ROGERS, *Commissioner*.

"Attest WILLIAM C. HUDSON, *Secretary*."

Upon November 26, 1884, the road was cited to show cause before the Board why its neglect and refusal to comply with the recommendations made should not be reported to the Attorney-General. The road in answer to the citation appeared and answered that no action had been taken upon any of the recommendations, because it had been waiting to present an argument against the positions taken by the Board in its decision of September 23, 1884. No new argument at all was presented as to the recommendations numbered "first," "second" and "third." As to these the road stands in the position of having neglected to comply with them, and as to them no reason seems to exist why the road should not be reported to the Attorney-General under section 6 of chapter 353 of the Laws of 1882, and to the Legislature. A similar neglect exists as to the recommendation numbered "fourth," as to the Lowville cheese rate, coupled with the fact that the road on November 26, 1884, was permitted to adopt the rather unusual course of again arguing upon their merits the questions therein involved, and was allowed to freely point out to the Board such criticism as to the road the report seemed to justify.

In determining what the Lowville rate relatively ought to be, it is said that the Board assumed the Watertown rate of twenty-five cents on cheese to be a fair rate, without either having argument or evidence before it from which the fairness of the rate for the service rendered could be determined.

We think the road is arguing in a circle in this matter, without apprehending the position of the Board.

Upon the first hearing it was established that at Watertown the Rome, Watertown and Ogdensburg and the Utica and Black River railroads were engaged in the expedient of doubtful legality called a "pool." This means that their total business and earnings were divided under a mutual agreement, by which each road bound itself to maintain to and from Watertown certain fixed rates. The only competition claimed by the railroad on the hearing to remain was that each sought as much of the business at Watertown as possible, in order that the large share thus obtained might aid in securing to the road obtaining it a larger proportion of the total under future agreements. Under these circumstances the Board said, and still insists, that it cannot do otherwise than assume the Watertown mutually maintained cheese rate of twenty-five cents to be a fair rate for the service rendered. But the road says this rate is not the rate of our choice or in accordance with our judgment. The Rome, Watertown and Ogdensburg has the shorter line; it fixed the rate before we got to Watertown, and when we reached there we had to accept it for our longer haul; while we admit that we agree to maintain it, and while

we make something on it, yet it is a rate forced upon us and not made by us.

A competitive point rate fixed by strife and war can, with reason, be urged to be little indication of what intermediate rates ought to be. Such competitive rates are apt to be regardless of the necessities of the roads, or of what ought to be paid to stockholders. Whether rate so fixed ought, without further proof, to be assumed as a fair rate, is a mooted question. When, however, this strife and contention is amicably settled under a "pool," by which rates are fixed or maintained by agreement, and the earnings are divided, it would be a wrong public policy to thereafter permit the roads therein engaged to insist that their rates are competitive in such a sense as not to be deemed fair rates for each road. The mere circumstance that one road has a somewhat longer haul than the other, and that the rate adopted is that of the shorter road, cannot be deemed of so much importance as to compel the inference that the longer road is not getting a fair rate. The circumstance of length of haul is doubtless considered among others in making the agreement and division, and it is not common sense to assume that the agreement is made until each road obtains what it considers a fair return for its service, though it may perhaps be less than it would desire were it entirely free in the matter. A road ought not to be permitted to occupy a double position on the question of rates at competitive points toward the public. It cannot pool with its competitor, and, at the same time, insist that its rates are to be regarded as competitive, and, therefore, so unreasonably low as to be accepted as no guide in deciding what rates ought to be at intermediate or other points.

A review of the evidence shows that the road has not offered a single word of proof explanatory of the pooling agreement or of the rates under it, etc. Such facts as appeared have been substantially stated, they were drawn from its officers and were left by the road without further explanation, to be liberally construed, this way or that, as seemed best to counsel. The Board believes it would be justified in its recommendation as to the Lowville cheese rate, where the twenty-five cent rate at Watertown assumed to be a fair rate for a seventy-two mile service only. To charge an intermediate place, furnishing three times the business in a leading article of transportation, more than twenty cents for sixty-one miles of service would, of itself, be an unjust discrimination.

The Board further tested the rate in each of the former reports at Watertown and Lowville by citing rates upon other roads, and, as it judged, the comparison showed the Utica and Black River rates to be relatively high. The road now says: "This, if admitted, does not prove or tend to prove that the Utica and Black River rates are too high, for the reason that neither the evidence nor the opinion (of the Board) shows that the condition of the roads with which the Utica and Black River is compared is the same as that of the Utica and Black River. It is not a comparison of like with like, which must be the nature of two things compared, if any sound conclusion is to be drawn from one as to the other."

If by this is meant, as the Utica and Black River claims, that the roads compared and all the conditions surrounding their traffic and

regulating their rates must be "absolutely identical," then no comparison can ever be made at all, for such similarity between roads cannot in the nature of things exist.

If, however, a more common sense view is to be taken of the matter, and the comparison is to be relied upon where a general similarity of conditions exist, and due allowance is made for such differences as occur, then the Board did the road no injustice in the citations made of rates upon other roads, as is shown by the following table, compiled from official reports to the State for the year 1883, and from Poor's Manual.

REPORT OF THE RAILROAD COMMISSIONERS.

1883.

ROAD.	STOCK AND BONDS.		GROSS EARNINGS.			NET EARNINGS.			Miles operated.
	Amount.	Percentage of stock and bonds.	Amount.	Per mile.	Percentage of stock and bonds.	Amount.	Per mile.	Percentage of stock and bonds.	
Utica and Black River	\$2,884,000 00		\$834,125 06	\$4,634 08	28.92	\$328,138 06	\$1,622 94	10.13	180
Rome, Watertown and Ogdensburg.....	16,004,390 00		1,694,230 91	4,082 95	10.58	300,783 67	721 30	1.88	417
Long Island.....	16,394,019 55		2,685,090 34	7,595 00	17.44	1,001,276 01	2,828 48	6.50	384
Canadian Pacific.....	*88,656,333 33		4,491,351 78	2,390 14	5.06	537,883 77	282 65	.606	1,908
Grand Trunk	†20,854,732 24		16,001,537 98	7,435 66	6.93	4,943,753 76	2,237 23	2.14	2,153
New York and Harlem (1883)	‡17,643,238 25		\$2,747,460 55	20,657 60	15.57	\$1,298,794 01	9,547 33	7.90	\$133

* Stock and bonds includes \$32,423,076.60 government aid.

† Stock and bonds includes \$16,555,038.41 government aid.

‡ Cost of city and steam line, as found by the Railroad Commissioners.

§ Taken from report of investigation by Railroad Commissioners, and city line added, for 1882.

It will thus be seen that for the year 1883 the Utica and Black River railroad earned so much higher a percentage of either gross earnings or net earnings upon its stock and bonds than the roads cited as to cause astonishment. It will hardly be denied that this, to some extent, shows that in proportion to the necessities of the road (to-wit, in proportion to the amount of stock and bonds upon which it is to earn a return), its rates must be comparatively high. Since its business enables it to earn so much larger a percentage upon its stock and bonds than the other roads cited, it does not seem as though the Board did it injustice in calling attention to the fact that its rates were generally much higher than theirs.

The fact that its cost in stock and bonds is so much less per mile than is that of any road cited is one strong reason why it ought to charge lower rates than they do. Instead of this, however, we find its cheese rates about twice as high, length of haul alone being considered. There are, of course, other elements to be regarded in determining rates, such as situation, condition, grades and other elements of expense in working the road. It appears by the table that the operating expenses of the Utica and Black River leave larger net earnings than is found upon the other roads.

The inspections of the road have also shown that it is very economically managed, particularly in the depots, freight-houses and such like facilities afforded by it to its patrons.

From these facts it would again be fair to infer that it can generally afford at least as low rates as the roads cited, and that the comparisons made did it no wrong. The road urges that two at least of the roads selected are what are popularly called bankrupt roads, and that in such condition their rates are no criterion for any other road's guidance. For this and other reasons as much weight ought not to be given to the Grand Trunk rates as to those of the other roads, but it does not at all weaken the comparison with the Rome, Watertown and Ogdensburgh.

Prior to its consolidation with the Lake Ontario railroad, the Rome, Watertown and Ogdensburgh was a dividend-paying road. Since that time its rates have been generally maintained as they were upon the Rome, Watertown and Ogdensburgh branch, as appeared upon the Hepburn investigation. Its misfortunes have arisen from the fact that under the consolidation the old and paying portion of its road from Rome to Ogdensburgh has been burdened with the long and unremunerative lines coupled with it under the consolidation. The comparison was with rates between Rome and Watertown, which are undoubtedly maintained higher than would be necessary were it not for the conditions mentioned, which tend to keep them up, including the Watertown cheese rate. The Board treated the road fairly in the comparisons made, and a careful analysis shows that the Utica and Black River road is not justified in claiming that the comparison with either of the roads cited is favorable to itself, or that the Watertown cheese rate of twenty-five cents is below fair pay, even according to railroad standards, for the service rendered.

The Board concluded to recommend that the Lowville cheese rate be lowered to twenty cents, as compared with the Watertown winter rate of twenty-five cents, because it ascertained that during

1881, 1882 and 1883 Lowville shipped about three times as much cheese as Watertown, and that therefore to charge Lowville more than twenty cents for two-thirds of the Watertown haul was an unjust discrimination. The decision criticised was placed upon the ground of the existence of an unjust discrimination against Lowville, distance and quantity of shipment, etc., being relatively considered.

The Board then says: "It is an axiom recognized among railroad men that rates can be profitably lowered in proportion as the bulk of shipments increases. If the Watertown business were three times as large as it is, the road could certainly with profit lower its rate there to twenty cents. If there, why can it not do the same thing at a point which makes the haul but two-thirds of that from Watertown?"

In what it said about this axiom the Board was endeavoring to illustrate how clear the discrimination was even from a railroad standpoint, and it is hardly ingenuous to assume therefrom that the Board was abandoning its position as to discrimination, and was basing its decision solely upon the fact that Lowville shipped more cheese than Watertown, and that in so doing the Board used an axiom properly applicable to the entire bulk of shipments of a road and not to its business in a particular article. Further on in its report the Board says: "Section 33 of the general act certainly cannot be so construed as to forbid such a lowering of rates as will remedy such an unjust discrimination as appears to the Board to exist at Lowville." This not only again discloses the basis of the report, but also clearly shows that the Board had in mind a provision which would forbid the State, in the exercise of good faith, from interfering with the rates of the road because of any mere railroad or business axiom, however construed or applied, because for the year 1883 the net income of the road did not exceed ten per cent upon the capital actually expended. Had the Board decided the matter as construed by the road, section 33 would have forbidden its recommendation, because its rates cannot be interfered with, whatever its business amounts to at this or that place, until its net income derived from the entire bulk of business exceeds ten per cent. But we repeat, section 33 does not forbid the rectifying of unjust discrimination between persons or places by causing the higher and relatively unjust rate to be lowered. It would be unreasonable to assert that a road may charge one person or one place twice as high rates as another under like circumstances, and that the State could not interfere to lower the high rates because of section 33.

Since the last report was made one other fact has been ascertained by the Board, which, in justice to the complainants, should be mentioned. It is, that as was proved before the Hepburn committee in 1879, by the road itself, its cheese rate from Lowville and Watertown alike, from January 1 to October 3, 1879, both in winter and summer, was twenty cents. The witness testified that it was lower than what he regarded as proper, and was made to meet low prices and hard times. What the rate was is of little importance, but the fact that the road then thought it proper to give to Lowville the same rate that Watertown has, goes far toward estopping the road from refusing to the complainants all they have asked for in this investigation, to-wit, that they should be given the same rates as Watertown.

The Board has endeavored to hear this matter fully and fairly, and has given to the road full and complete opportunity to present its views of the questions involved, even going so far as to willingly listen to criticisms made upon its decision, and to consider all of the errors therein pointed out. The road, as it admits, has taken no action upon any of the recommendations, and it is proper and just that the neglect of the road to comply therewith should be reported by the Board to the Legislature and to the Attorney-General for such action thereon as to the Legislature may seem proper, or as the law may permit on the part of the Attorney-General. The Board hereby notifies the road that it will so report to the Legislature and Attorney-General at the expiration of ten days from the issuing of this decision, unless within that time the road shall comply with the recommendations and shall notify the Board of such compliance.

JOHN D. KERNAN,
JOHN O'DONNELL,
Commissioners.

Attest: WILLIAM C. HUDSON,
Secretary.

Commissioner ROGERS.—I concur as to the second recommendation in the report of September 23, 1884, adhering to my former report as to the other recommendations.

WM. E. ROGERS.
Commissioner.

Attest: WILLIAM C. HUDSON,
Secretary.

The road not complying under the above notice, the facts and papers in the case were transmitted to the Attorney-General, who now has the matter before him.

IX.

IN THE MATTER OF THE COMPLAINT OF GEORGE Q. MOON AND COMPANY, OF BINGHAMTON, *v.* THE NEW YORK, ONTARIO AND WESTERN RAILWAY COMPANY, ON ACCOUNT OF FREIGHT RATES.

November 12, 1884.

The complainants in this case allege that they are large shippers of grain, flour and mill feed; that their place of business is Binghamton; that formerly they shipped a large amount of merchandise to points on the New York, Ontario and Western railway, reaching that road at *Sidney* by the Albany and Susquehanna railroad from Binghamton; that for two years or more the New York, Ontario and Western Railway Company have practically shut them off from doing any business with their customers on the line of the New York, Ontario and Western road by charging them an exorbitant rate of freight from *Sidney* to points east.

The complainants further state that the railroad authorities inform them that they prefer to give the Oswego and Fulton shippers the advantage over the Binghamton merchants because, by so doing, the railroad gets the advantage of the *long haul* over its own line ; that the railroad, therefore, makes a tariff from Sidney to points east, which is about double the proportionate rate charged from Oswego and Fulton ; that in consequence of this tariff the complainants are debarred from doing business with their old customers who live on the line of the New York, Ontario and Western railway, who may desire to buy goods of Binghamton merchants ; that this tariff constitutes an unjust discrimination against Binghamton and in favor of other places, and is a serious drawback to the merchants of Binghamton.

The complainants further allege that the rates on the New York, Ontario and Western are about double those charged on either the New York, Lake Erie and Western or upon the Delaware, Lackawanna and Western ; for instance, that the Erie carries 100 pounds of such freight as is shipped by the complainants 100 miles for ten cents per 100 pounds, while the New York, Ontario and Western charge twenty-four cents ; the rate from Sidney to Fallsburg, ninety-five miles, being twenty-four cents per 100 pounds.

No written reply was made by the road. A public hearing was given, however, on October 14th, at which the road was represented by counsel, J. B. Kerr, Esq., and its general freight agent, Mr. J. C. Anderson ; Mr. Moon appearing for his firm.

In the testimony there taken it was stated by Mr. Moon, in addition to his written communication, that the rate from *Oswego* to *Fallsburg* on the New York, Ontario and Western, 219 miles, for full car-loads of grain and flour, was eighteen cents per 100 pounds, while from *Sidney* to *Fallsburg*, ninety-five miles, the rate was twenty-one cents per 100 pounds, whereas formerly the rate was twelve and forty-one one hundredths cents ; that the distance from Sidney to Fallsburg was 124 miles nearer than from Oswego.

Mr. Anderson, on the part of the road, frankly admitted the facts as presented by Mr. Moon, and stated that it was the intention to cut Binghamton off, but defended the action of the road on the following grounds:

First. That the New York, Ontario and Western had made arrangements with the New York Central to have shipments of flour and grain from the west to points on the New York, Ontario and Western come by way of the first-mentioned road ; that by the terms of the contract with said road the New York, Ontario and Western was to get *twenty-six* per cent of the through rate, with a certain arbitrary rate added. To illustrate : On the basis of twenty-five cents from Chicago to New York, the New York, Ontario and Western would get twenty-six per cent of said through rates, or six and one-half cents with ten cents arbitrary added, or sixteen and one-half cents ; that, therefore, it was much more advantageous to it to have the shipments come by this route (*via* Oneida) than *via* Sidney at the old rate of twelve and forty-one hundredths cents, which was *all* it got, having no arrangement with the Albany and Susquehanna. This, in spite of the fact that Oneida was 161 miles from Fallsburg, whereas Sidney was but ninety-five.

Mr. Anderson further alleged that Mr. Moon, at Binghamton, received especially low rates from the Erie road as compared with shippers at Oswego or Oneida from the other through lines; that, therefore, if he received lower, or even the same, rates from Sidney than other shippers did from Oneida or Oswego, he could cut them out. Mr. Moon declined to state what his Binghamton rates were, except under compulsion, but asserted positively that they were no lower than any one could get at Oswego or Oneida.

Second. The second ground for defending their local charges was that the road desired to encourage and build up milling enterprises on the line of its own road, as at Fulton and Oswego, and that, therefore, it made the rates less from such points than from places off the line of its own road.

The position taken by the road on the first ground to justify a *higher* rate from Sidney to Fallsburg than from Oneida to Fallsburg is, in the opinion of the Board, indefensible.

It is true that the arrangement with the New York Central is of benefit to the merchant living on the line of the New York, Ontario and Western if he chooses to draw his grain from the west by way of Oneida, for by reason of the road sharing in the through rate with the New York Central it is enabled to transport grain by the imposition of a much smaller arbitrary than if it had no such arrangement.

While it may also be true that if lower rates were given from Sidney to Fallsburg (*i. e.*, share of through rates, *plus* arbitrary), the New York, Ontario and Western would have to take a large proportion of its shipments at Sidney at the low rates, and therefore lose the benefit of its arrangement with the New York Central to the advantage of the Erie and Albany and Susquehanna; it certainly would not be the case if the rates were the same — *i. e.*, sixteen and one-half cents.

It is a palpable injustice to entirely disregard the proximity of Binghamton to points on the line of the New York, Ontario and Western. While the principle of charging according to distance hauled is not always the one solely applicable in imposing a freight tariff, it cannot be utterly ignored, indeed *reversed*, as in this case; besides which no advantage can accrue to the road by charging more from Sidney than from Oneida to the points in question. It simply stops shipments *via* Sidney; and no more is received when they come *via* Oneida, although the distance is sixty-six miles further.

It is clear that a case of unjust discrimination is made out here; and the Board is of the opinion that at least no greater charge should be made from Sidney to points east thereof than from Oneida to the same points east of Sidney.

The second ground of defense alleged by the road is that its rates are designed to build up enterprises on its line. The policy of giving low rates to manufacturing enterprises is a general one. Railroads can afford to give such rates, because of the increased business thereby obtained, and the decreased cost of handling large as compared with small quantities of freight. In this case, however, the Board believes this policy to have been carried to an unwarrantable excess.

The charge of twenty-one cents from Sidney to Fallsburg, ninety-five miles, is utterly indefensible, while the charge from Oswego to the same point, 219 miles, is but eighteen cents.

If the case was reversed, for instance, and the charge from Binghamton or Sidney to North Norwich was made ten cents, while the rate from Oswego to North Norwich was made twenty cents, the Oswego merchants would loudly and justly complain; but it would be quite as defensible as the charges in point.

The Board is not prepared to recommend definitely what proportion the rates from Oswego to points east of Sidney should bear to the rates from Sidney to the same points, farther than to say the latter should be materially lower and bear some relation to the distance carried.

RECOMMENDATIONS.

The Board recommends:

That the New York, Ontario and Western Railway Company shall not charge a higher rate of freight from Sidney to points east thereof than from either Oswego or Oneida to the same points for the same class of goods.

By the Board.

WILLIAM C. HUDSON,

Secretary.

The recommendations have been complied with.

X.

J. W. MERCHANT ET AL. v. ELMIRA, CORTLAND AND NORTHERN RAILROAD COMPANY.

February 23, 1885.

This was a complaint that the Elmira, Cortland and Northern Railroad Company did not make a close connection with the Delaware, Lackawanna and Western, or the Syracuse and Binghamton and New York R. R. Co. at Cortland, whereby passengers for Truxton, Cuyler, De Ruyter, Cazenovia and Canastota were compelled to stay over night at Cortland. The answer of the company was that prior to February 9th, the D., L. & W. trains were due a quarter of an hour after the Elmira, Cortland and Northern trains; on February 9, the D., L. & W. R. R. Co. put a new schedule into effect bringing their trains due one minute after those of the Elmira, Cortland and Northern. To the question, why a close connection with the D., L. & W. was not made the answer was because more important connections were necessary at Canastota, in order to give through passengers for Utica, Albany, New York and all New England points, the benefit of taking fast trains on the Central and West Shore roads at Canastota, and that the running of the trains on the Elmira, Cortland and Northern R. R. were ordered with reference to that connection.

This answer was transmitted to the complainants with the request that further reply be made. But as no such reply has been made, the Board presumes the complainants to be satisfied with the answer of the company.

XI.

HENRY C. ROBINSON v. MANHATTAN ELEVATED RAILWAY COMPANY.

February 28, 1885.

This complaint was first brought to the attention of the Board, May 21, 1883, and was an effort to secure for the passengers of the Second Avenue line, a stairway to the street from the depot of the Second Avenue railroad without having to climb stairways and cross a bridge at the junction of Third and Second Avenue roads at Chatham Square to reach the stairway of the Third Avenue road. A decision recommending the building of such a stairway was made and published in the first annual report of the Board (p. 165). The company acquiesced in the decision of the Board, but upon attempting to comply, was met with an injunction of abutting property owners, who claimed that their property would be injured by such building. The company explained that "the motion to vacate the injunction had not been argued, for the reason that in the suit in which it was granted, the plaintiff claims a large amount of damages for injury to his property, caused by the erection of the structure and running of trains upon his property, independent of the question of the stairway."

On June 3, 1884, the Board suggested that a motion to modify the injunction so far as to permit the building of the stairway could and ought to be made in the interest of public convenience. This was answered by the statement that the counsel of the company was out of town and upon his return the matter would be submitted. After a long delay, during which the Board urged again action by the company, the counsel of company wrote, that he could not advise the company that it would lead to any useful result to make the motion to vacate the injunction. To this the Board replied that it was "not inclined to press the Manhattan Elevated Railway Company to move to modify the injunction as previously recommended by the Board under all the circumstances, but it desires to remind the company that a stairway at the point designated is a public necessity, and that when its erection can be made it ought to be done for the convenience of the public." Here the case rests.

XII.

IN THE MATTER OF THE COMPLAINTS OF THE TRADERS AND TRAVELERS' UNION AND MERCHANTS OF NEW YORK v. THE TRUNK LINES DOING BUSINESS IN THE CITY OF NEW YORK, FOR DIVERSIONS OF FREIGHT TO LINES OTHER THAN THOSE SELECTED BY THE SHIPPERS FOR TRANSPORTATION.

March 4, 1885.

OPINION BY COMMISSIONER O'DONNELL.

This is a complaint from the Traders and Travelers' Union, an incorporated organization representing commercial interests of the highest importance to the commerce of New York city and the State,

presented December 27, 1884, and from a committee of representative merchants of New York city.

The complaint alleges "that a pernicious system has been adopted by the various Trunk Lines, centering or having business offices in the city of New York, whereby freight received by one line is diverted to other lines resulting in great loss to our merchants. Goods tendered to a selected transportation line are received only upon the enforced acceptance of a bill of lading containing a provision authorizing such diversion." This alleged diversion of freight the complaint says, "is unwarranted by necessity and is at variance with the common-law obligations of carriers. The remedy to enforce the carrier's duty through the intervention of the Attorney-General is of no practical utility to meet the numerous cases of daily occurrence."

"We respectfully submit that this evil should be corrected through your Board, and a direct and speedy remedy should be provided for the shipper."

The following list of mercantile firms is attached as representing a partial list of the membership of this organization:

E. S. Jaffray & Co.	Parke, Davis & Co.
Bates, Reed & Cooley.	The Dixon Crucible Co.
Charles Zinn & Co.	The Tuttle & Bailey Mfg. Co.
Sweetser, Pembroke & Co.	S. R. Van Duzer.
Rose, McAlpine & Co.	R. J. Waddell & Co.
August, Bernheim & Bauer.	Chas. W. Mulford.
Baker, Pratt & Co.	Cary & Moen.
Arnold, Constable & Co.	Harper & Bros.
W. E. Burlock & Co.	The Domestic Sewing Machine Co.
E. H. Van Ingen & Co.	Joseph Ullman.
Whiting Mfg. Co.	Manhattan Cloak and Suit Co.
R. J. Dean.	Naumburg, Kraus, Lauer & Co.
McKesson & Robbins.	S. M. Bixby & Co.
Joseph Hill.	C. L. Woodbridge & Co.
Rogers, Peet & Co.	George H. Clark & Co.
Russell & Erwin Mfg. Co.	Sylvester, Hilton & Co.
D. Powers & Sons.	John D. Cutter & Co.
L. Straus & Son.	S. Stein & Co.
Hornthal, Whitehead, Weissman & Co.	Harris & Russak.
Lewisohn Bros.	William H. Lyon & Co.
Magovern & Co.	Hemphill, Hamlin & Co.
Joseph Wild & Co.	Banner Bros.
Warner Bros.	E. & H. T. Anthony & Co.
Whiting & Campbell.	Hammerslough Bros.
William A. Avis.	Holmes, Booth & Haydens.
Boorum & Pease.	Sargent & Co.
Bay State Shoe and Leather Co.	Martin Kalbfleisch's Sons.
Earl & Shoen.	Lewisohn & Co.
H. Herrman, Sternbach & Co.	William Campbell & Co.
William H. Mairs & Co.	P. Lorillard & Co.
Belding Bros. & Co.	Eberhard Faber.
Ives & Bonar.	Robert Graves & Co.
Cassell & Co. (Limited).	Hutchinson, Pierce & Co.
C. T. Reynolds & Co.	Hodgman & Co.
Daniel Slote & Co.	Cary Bros.
Thomas Russell & Co.	William Willis.
William Demuth & Co.	H. Bartholomas & Co.
Benjamin & West.	Calhouns, Robbins & Co.
Oliver A. Gager.	John Osborn, Son & Co.
Warren, Fuller & Lange.	H. W. Johns Mfg. Co.
F. E. James.	G. Sidenberg & Co.

Christy, Walcott & Co.	Oscar Strasburger & Co.
George F. Bassett & Co.	Wallace, Elliot & Co.
Spelman Bros.	A. Klipstein.
Fr. Beck & Co.	Francis H. Leggett & Co.
Austin, Nichols & Co.	Dreyfus, Kohn & Co.
Tefft, Weller & Co.	The Butler Hard Rubber Co.
Dunham, Buckley & Co.	New York Belting and Packing Co
Mills & Gibb.	Kearney & Foot Co.
Robert K. Davies & Co.	The Barbour Bros. Co.
Morrison, Herriman & Co.	Muser Bros.
Lord & Taylor.	Leshner, Whitman & Co.
Iverson, Blakeman, Taylor & Co.	Asch & Jaeckel.
Collins, Downing & Co.	J. & A. Boskowitz.
W. H. Scheffelin & Co.	Edwin Bates & Co.
Phelps, Dodge & Co.	The A. H. Hart Co.
Lee, Tweedy & Co.	Chas. A. Herpich.
Graf Bros.	E. Oelberman & Co.
J. & R. Lamb.	V. Henry Rothschild & Co.
A. Origet.	A. P. Rockwell.
Geo. W. Allen Co. (Limited).	Spielman & Co.
T. B. Coddington & Co.	John Thompson.
Howell & Bros.	Leopold Well.
F. J. Kloes & Co.	R. S. Hobbs & Co.
J. M. C. Martin & Sons.	J. H. Larrabee & Co.

FULTON MARKET WHOLESALE FISH DEALERS.

Benjamin & West.	H. M. Rogers & Co.
Moon & Lamphear.	Lamphear & Haff.
J. N. Harris & Co.	John Feeney.
Horace E. Stillman.	Caleb, Haley & Co.
John Comstock & Co.	West & Crooker.
Powell & Wood.	S. L. Storer & Co.
Eldred & Haley.	John W. Campbell.
Wallace & Keeny.	Lynch & Co.

The following memorials have also been received by the Board :

“NEW YORK, January 2, 1885.

“*The Honorable Board of Railroad Commissioners :*

“SIRS — The undersigned, a committee appointed at a representative meeting of merchants, held at the Merchants' Club of this city, December 29, 1884, beg leave to inclose a copy of the resolutions passed at the meeting above referred to.

“They beg leave also to ask your honorable body to appoint a time when you will give a hearing in this city to the undersigned, in the important matter alluded to in the resolution.

“They will be very glad if it will suit your convenience to name an early day for this purpose.

(Signed),

“JOHN GIBB,
“JAMES H. DUNHAM,
“W. S. DUNN.”

(Copy of resolution.)

WHEREAS, A system has been adopted by leading railroad lines from New York, by which freight received by them is transferred from one line to another, arbitrarily and without consent of the shippers ; and,

WHEREAS, It has been found by experience that this system has worked serious injury to the trade of this city ; therefore, be it

Resolved, That a committee of three be appointed by this meeting, whose duty it shall be to consult with the Railroad Commissioners of this State, and if, in their judgment, it shall be deemed necessary so to do, to prepare a bill, the object of which shall be to prevent the objectionable features in the shipment of goods, and cause the same to be presented at the next session of the Legislature of this State, and to use all proper measures to secure the passage of said bill.

CHICAGO MEMORIAL.

To the Merchants' Club of New York City :

We, the undersigned merchants of the city of Chicago, do hereby attest our approval of the action of your club, looking toward the securing of appropriate legislation to prevent the transfer of freights from one line to another without the consent of the shipper.

This practice of the freight line pool is very detrimental to our interests and a great damage to us, often causing delays of ten days and more in the delivery of freights.

We further state that we are frequently compelled to buy goods in higher markets than New York, well knowing that we cannot depend upon having goods sent by the freight line we direct.

G. H. HOWARD.	SCHLESINGER & MAYER.
HOTCHKIN, PALMER & Co.,	JAS. ARMSTRONG & Co.
Wholesale.	BOSTON STORE.
HOTCHKIN, PALMER & Co.,	BARBER, HARTMAN & Co.
Retail Department.	HAYDEN BROS.
WILSON BROTHERS,	JOHN YORK.
JOHN W. GOETZ & Co	C. M. E. BARDRIDGE.
J. L. BLOOM.	

MILWAUKEE MEMORIAL.

To the Merchants' Club of New York City :

We, the undersigned merchants of the city of Milwaukee, do hereby attest our approval of the action of your club looking toward the securing of appropriate legislation to prevent the transfer of freights from one line to another without the consent of the shipper.

This practice of the freight line pool is very detrimental to our interests and a great damage to us, often causing delays of ten days and more in the delivery of freights.

We further state that we are frequently compelled to buy goods in higher markets than New York, well knowing that we cannot depend upon having goods sent by the freight line we direct.

F. L. KELLY & Co.	L. HARRIS & SONS.
WISE & DOTTENHEIM.	KROEGER BROS.
H. HEYN.	LONG BROS. & Co.
BROWNING, KING & Co.	A. W. RICH & Co.
JACOB KATS.	STARK BROTHERS Co.
ESPENHAIN & BARTELS.	MATTHEWS BROS.

Similar memorials have also been received from merchants of Michigan and Ohio.

DIVERSION OF FREIGHT.

The following memorandum of cases of diversion of freight is attached to the complaint of the Traders and Travelers' Union, with accompanying remarks:

Messrs. Bates, Reed & Cooley present the following list of cases:

March 4, 1884, shipment to Darlington, Wis., per M. D.; diverted to W. S. L. Twenty days in transit. Usual time nine or ten days.

March 22, 1884, shipment to Bay City, Mich., per M. D.; diverted to W. S. L. Eighteen days in transit. Usual time seven or eight days.

April 11, 1884, shipment to Fowlerville, Mich., per M. D.; diverted to W. S. L. Thirteen days in transit. Usual time seven or eight days.

April 16, 1884, shipment to Galena, Ill., per M. D.; diverted to W. S. L. Eighteen days in transit. Usual time eight days. One case short delivered.

April 10, 1884, shipment to Creston, Iowa, per Blue Line; diverted to W. S. L. Thirty-seven days in transit. Usual time eleven or twelve days.

April 12, 1884, shipment to Greencastle, Ind., per M. D.; diverted to W. S. L. Nineteen days in transit. Usual time six days.

April 25, 1884, shipment to Elkhart, Ind., per M. D.; diverted to W. S. L. Thirteen days in transit. Usual time six days.

April 25, 1884, shipment to Toledo, Ohio, per M. D.; diverted to W. S. L. Twenty-four days in transit. Usual time four days.

April 28, 1884, shipment to Mineral Point, Wis., per M. D.; diverted to W. S. L. Twenty-one days in transit. Usual time nine days.

In the majority of above cases, the consignees have made claim for delay in transit, extension terms, and some have returned part of their goods.

Messrs. W. H. Lyon & Co. present the following list of cases:

April 3, 1884, shipment to Washington, Kan., per M. D.; diverted to W. S. L. Delayed so long tracer had to be sent.

April 10, 1884, shipment to Cameron, Mo., per M. D.; diverted to W. S. L. Had not reached destination May 27th. Should not have been more than ten days.

April 10, shipment to Sabetha, Kan., per M. D.; diverted to W. S. L. Arrived latter part of May. Should have arrived April 22d.

April 23, shipment to Milledgeville, Ill., per M. D.; diverted to W. S. L. Delayed because of transfer.

Messrs. Lee, Tweedy & Co. present the following list of cases:

April 12, shipment to Elgin, Ill.

April 14, to Elgin, Ill.

April 15, to Bloomington, Ill.

All above shipments were delayed in consequence of diversion from M. D. to W. S. L., from eighteen to twenty days each.

The purchasers threaten to stop buying in New York if they cannot receive their purchases more quickly.

Messrs. Mills & Gibb present the following list of cases:

April 11, shipment to Springfield, Mo., per M. D.; diverted to W. S. L. Time of transit forty-six days. Usual time about fourteen days. The consignee writes: "I am losing both the sale of the goods, and also customers every day. The loss to me has been considerable. I should like to know who is to remunerate me for it."

April 15, shipment to Burlington, Wis., per M. D.; diverted to W. S. L. Time of transit thirty-two days. Usual time nine or ten days. In this case consignee claimed to advance the date of their bill, which, of course, was a loss to shipper.

April 19, shipment to Mt. Vernon, Ind., per M. D.; diverted to W. S. L. Had not arrived May 22. Usual time about six days.

April 21, shipment to Mattoon, Ill., per M. D.; diverted to W. S. L. Time of transit twenty-nine days. Usual time six to eight days.

April 24, shipment to Cold Water, Mich., per M. D.; diverted to W. S. L. Had not arrived May 8. Usual time about eight days.

April 22, shipment to Champaign, Ill., per M. D.; transferred to W. S. L. Time of transit twenty-five days. Usual time eight days. Consignee wrote that goods were out so long that he could not use them, and that he would have to return part of them, which he did.

April 22, shipment to Albany, Wis., per M. D.; diverted to W. S. L. Time of transit eighteen days. Usual time, eight days.

April 22, shipment to Hastings, Neb., per M. D.; diverted to W. S. L. Goods had not arrived May 10. Usual time ten days.

April 23, shipment to Mechanicsburg, Ohio, per M. D.; diverted to W. S. L. Time of transit thirty days. Usual time four days.

April 23, shipment to Madison, Ind., per M. D.; diverted to W. S. L. Time of transit thirty-one days. Usual time five or six days. Some of these goods were returned, as consignee could not wait, and had to buy elsewhere.

April 24, shipment to Crawfordsville, Ind., per M. D.; diverted to W. S. L. Had not been received May 6. Usual time six days.

April 25, shipment to Findlay, Ohio, per M. D.; diverted to W. S. L. Had not arrived May 13. Usual time four days.

April 25, shipment to Fon du Lac, Wis., per M. D.; diverted to W. S. L. Had not arrived May 12. Usual time nine or ten days.

April 26, shipment to Detroit, Mich., per M. D.; diverted to W. S. L. Had not arrived May 17. Usual time four days.

April 29, shipment to Princeton, Ill., per M. D.; diverted to W. S. L. Time of transit thirty-six days. Usual time eight days.

A large amount of these goods were returned to us, as consignees could not use them on account of delay. They also write that they are over-charged on freight on account of goods coming this way.

Messrs. Hornthal, Whitehead, Weissman & Co. present the following case:

February 25, shipment to Owentown, Ky., per Star Union Line, diverted to W. S. L. Received after a long delay.

Messrs. Halstead, Haines & Co. write as follows:

"We received a great many complaints in regard to goods being delayed in transit. While we are unable to furnish proof that the delay is in consequence of diversion, we believe that in many such cases the tardy delivery is traceable to the fact that the goods have not been forwarded as per our instructions and in accordance with the request of the purchaser."

Messrs. August, Bernheim & Bauer write as follows:

"One of our Texas travelers took several orders from different merchants in one town in Texas. The instructions were to ship them all at a certain date. We did so, and shipped them by Merchants' Despatch. In the course of time we received letters from the different parties that the goods had not arrived yet. We then sent word to the Merchants' Despatch, who forwarded tracers at once. We gave the matter no further attention, until again informed that the goods had not reached their point of destination, and our customers began telegraphing, saying it would be too late for them to receive the goods any more on account of the season having advanced already too much. One of our firm then called at the office of the Merchants' Despatch, and these gentlemen claimed they did all in their power, and sent the tracers, but after a further conversation, and after looking into this matter carefully, it turned out that our goods instead of going by the Merchants' Despatch, as intended, was transferred to the Erie railroad, loaded into one car, and that this car was burned up within a very short distance of Jersey City.

"We admit that the Merchants' Despatch paid us for the goods, but our customers lost the sales and profits, and we experienced a great deal of trouble and annoyance. Not having shipped any goods by the Erie railroad, we could never dream that if a car was burned on that road it would contain goods which were sent by the Merchants' Despatch, and the company never notify us."

Messrs. Calhoun, Robbins & Co. present the following list of cases:

March 29, 1884, shipment to Benton Harbor, Mich. Goods received May 26th or 27th, and returned to us, as purchasers could not use goods. We had to duplicate the above or lose sale.

April 21. 1884, shipment to Brazil, Ind. Goods sent around by St. Louis,

Date of shipment.

April 1. To Toledo, Ohio.
2. Jackson, Michigan.
11. Detroit.
21. Toledo, Ohio.
22. Minneapolis, Minnesota.
22. Terre Haute, Indiana.
22. Toledo, Ohio.

Date of shipment.

April 23. To Chicago, Illinois.
23. Traverse City, Michigan.
24. Cincinnati, Ohio.
25. Flint, Michigan.
25. Fon du Lac, Wisconsin.
25. Flint, Michigan.
26. Tecumseh, Michigan.

The above goods were shipped by Merchants' Despatch, and in each case we were obliged to send out a tracer, and in some of them two and three tracers. We could name many other similar cases.

With respect to all, the Merchants' Despatch said the goods were transferred to the West Shore road.

Messrs. E. S. Jaffray & Co. present the following list of cases:

April 26, 1884, shipment to Chicago, Ill., per Blue Line; diverted to West Shore Line. Fifteen days in transit. Usual time five days.

April 28, 1884, shipment to Grand Rapids, Michigan, per M. D.; diverted to West Shore Line. Thirteen days in transit. Usual time five days.

The above goods were wanted for immediate use. Owing to the delay our customers lost sale of the goods, and we were obliged to date invoice three months forward, or take them back.

PUBLIC HEARING IN NEW YORK.

A copy of the complaint and memorandum of alleged diversion of freights was sent to the Trunk Line Commissioner, Albert Fink, Esq., and a public session of the Board was held January 14, in New York city, at the Chamber of Commerce.

Abel Crook, Esq., W. T. King, Esq., and Hon. R. F. Austin appeared for the complainants.

On the part of the railroads, Albert Fink, Commissioner, and Hon. C. M. Depew appeared for the Trunk Lines. R. C. Vilas, General Traffic Manager, for the New York, Lake Erie and Western, and Horace J. Hayden, Vice-President for the New York Central.

Mr. Fink said:

"It was conceded by the Trunk Lines that under the pooling agreement the right is reserved and is agreed upon that freight shall be converted from one line to another, so as to equalize the shipments in proportion to the percentages which each line is to carry; that these freight lines which do the business are so far under the control of the railroads that they are compelled to adopt that portion of the agreement in making their transportation contracts with the shippers. Mr. Depew stated that these *Fast Freight* Lines are really the railroads in partnership—that the *Merchants' Despatch* is a joint-stock association, and the New York Central and the Lake Shore own nine-tenths of it."

Mr. King, representing the merchants, stated in detail the grievances complained of. These, it was claimed, "resulted from the transfer of freight from one line to another, under the pooling system. Trade was not only diverted from New York city, but the merchants suffered large losses, from the return of goods, because of serious delay in delivering to the consignee." Continuing, he said :

"These evils began with the organization of the pooling system, in 1878, and have increased until, for the past two years, and especially for the last year, they have been beyond the patient endurance of the mercantile community. Throughout the business of last spring every mercantile house suffered seriously by transfers of freight from the so-called fast freight lines known as the Merchants' Despatch, the Star Union Line, the Union Line, the Empire Line, and the White Line to the Lackawanna and West Shore. The Merchants' Despatch alone transferred daily three to twenty car-loads to the West Shore. From four to eight weeks elapsed before these goods reached their destination in Michigan, Illinois and other western States. The agent of the Merchants' Despatch himself informed me that there were claims against them amounting to \$50,000, for diversion of freight and for losses thereon. The house of Calhoun, Robbins & Co., of which I am a member, had to duplicate a bill of merchandise purchased and pay the charges by express, the original shipment only reaching the customer, in Michigan, after very nearly two months' delay. All the merchants claim to have had similar trouble, during the last spring, with all fast freight lines having a system of connection to the west."

He earnestly urged, on behalf of the merchants, that such relief may be had, prior to the opening of spring business, which begins about February first, so that the merchants here represented may be able to notify their customers that there will henceforth be no cause for complaint, because of the slow delivery of whatever merchandise they may choose to purchase in this market.

Mr. King also called attention to the form of receipt from the Empire line, which they are compelled to accept, allowing goods to be forwarded by any other railroad besides the Philadelphia and Erie company, and also making some other line responsible in case of loss or damage. He said this was the general form of bills of lading of all the fast freight lines :

EMPIRE LINE.

FAST FREIGHT LINE, *via* PHILADELPHIA AND ERIE RAILROAD AND ITS CONNECTIONS WESTWARD AND EASTWARD.

The Empire Line, which issues this bill of lading, controls the cars of its line, and is the authorized fast freight line of the Philadelphia and Erie railroad, over which and its connections it passes between the east and west.

L. G. KIES, *Western Superintendent, Cleveland, O.*

GEO. M. BALL, *Manager, Philadelphia, Pa.*

"It being expressly understood and agreed that, in consideration of issuing this through bill of lading and guaranteeing a through rate, the Empire Line reserves the right to forward said goods by any railroad line between point of shipment and destination.

"The Empire Line, or carriers over whose lines the goods are transported, shall only be responsible as warehousemen, not as common carriers, while the goods are at any of their stations awaiting delivery to the consignee.

"No guarantee of special time for the delivery of the goods is given. * * *

"It is further stipulated and agreed that, in case of any loss, detriment or damage done to, or sustained by any of the property herein receipted for, during such transportation, whereby any legal liability or responsibility shall or may be incurred, that company alone shall be held answerable therefor in whose actual custody the same may be at the time of the happening thereof. * * *

"The acceptance of this bill of lading, or a receipt for goods, made subject to the conditions of this bill of lading, makes this an agreement between the Empire Line and carriers engaged in transporting said goods and all parties interested in the property.

"WM. A. JONES, *Agent*,
"881 Broadway, N. Y."

Mr. King further said :

"I have two bills of lading here from the Empire Line. Goods shipped on November twenty-ninth by the Empire Line to William Piper, Sidney, O.; they were transferred on the thirtieth to the West Shore, a long delay; never have returned the receipt. I have another one, October twenty-seventh. The goods diverted on the twenty-eighth to the West Shore, to Cleveland, O.; I can't give the dates of the receipts of these. These are dry goods.

"Here is one dated December second; it is from the office of the Blue Line; it is in regard to two cases of merchandise shipped by H. B. Clafin & Co. to McGregor, Iowa. It was diverted to the Baltimore and Ohio road, 'and their attention has been directed in this case and to advise the result.' These goods were shipped on September twenty-second. The first notice they received was December second, and the twenty-seventh they called upon the Blue Line agent in regard to the goods; they hadn't heard from them. On January third, I think it was, the Blue Line agent informed them that the goods were burned and they must look to the Baltimore and Ohio for their claim."

Here is one dated November twenty-ninth, also the correspondence. Two cases of merchandise shipped by the Star Union Line; the customer writes to the shipper from Piqua, O., under date December seventeenth: "We have just received freight, and we find that you shipped the goods by the Empire Line. We ordered them shipped by Star Union. The goods have been eighteen days on the road, and should have come through in six, if they had been shipped by the Star Union. It was the busy season for selling heavy goods; two weeks of the best fall trade, and I think we will be entitled to return some of the heavy goods."

I have here a way bill from Piqua, O. These goods were shipped by Star Union Line on November twenty-ninth, and received, the way bill states, twelfth month, sixteenth day; customer's letter is dated the seventeenth. They were shipped to Piqua, O.; it is on the Pennsylvania road and its connections. They give on their bill of lading principal offices of the Star Union Line; they give that as one of their principal points on their bill of lading; the usual length of time is six days; they turned them over to the Empire Line and then to the West Shore Line.

Mr. King said the question of freights was involved in the transfer question. All the through lines make a through rate. Here is a letter in regard to the differences in rates by diversion of freight. They paid on 200 pounds one dollar and sixty-seven cents, about eighty-three cents a hundred, as against sixty-seven cents by the Star Union, provided they carried the goods. They say: "On examination we find that the charges are full tariff from which we are not diverting, and claim is therefore respectfully declined."

It is dated the seventh month, twenty-fifth day, according to the way-bill, that would be previous to the date of the tariff circular. Here is the correspondence from the customer. (See Exhibit A, p. 100.)

Here is a case of goods sent by the Star Union Line, November twenty-fifth, to Pittsburg, Pa., diverted and arrived at Pittsburg the fifteenth of December, twenty-one days from New York. (See Exhibit A, p. 100.)

I have here a case of three cases of merchandise shipped by H. B. Claffin & Co., of New York, dated November twenty-fifth, and arrived December fifteenth, Pittsburg, Pa.

Mr. King presented exhibits, claiming that these were only a few of the many thousands from which the mercantile community has been and is now suffering.

(See "Exhibits A, B, C," pages 100, 106, 107.)

Abel Crook, Esq., counsel for the Traders and Travelers' Union, presented at length the complaints of the merchants represented in that organization. He contended that a transportation line could be legally made to not only carry freight as directed by the shipper, but also to deliver it to the connecting line; but now the shipper is obliged to take a bill of lading over an irresponsible line.

Mr. Depew, replying, said:

"The Merchants' Despatch don't compel the shipper to take a bill of lading over an irresponsible road, but the Merchants' Despatch issue their own bill of lading, and if the goods are transferred and a loss happens, the bill is paid by the Merchants' Despatch."

Hon. R. F. Austin, Vice-President of the Traders and Travelers' Union, said:

"He had been a merchant in New York for twenty-five years, and that goods have to go long distances; new roads are being built; they are sometimes in the hands of inexperienced men. If he should ship a car-load of freight by his favorite line, and the railroad thought proper to give it to another line, they might place his freight upon a line frequently slow to pay damage on the one hand and, perhaps, in the hands of a receiver on the other. Freight is delivered, for instance, to a fast freight line, and they transfer it to the Grand Trunk road, and then I am over in Canada, with a loss to settle."

Continuing, he said:

"We will suppose that a party ships to St. Louis a valuable cargo of silks, worth \$50,000, and that while in transit out west, they strike an irresponsible road and are lost; the initial roads here stand up and fight, saying they are not responsible, and send the merchant to contest with that road the loss. Now, I don't think it is reasonable for the railroads out of the city of New York to assume that all the property lost in transit is simply to be protected as a matter of grace; I think the merchants should have a legal right to recover of them. The question before your honorable body is, whether the assumption on the part of the railroads that they can take the property of any merchant and transfer it to another road, whether that road is responsible or irresponsible, is not a dangerous principle that you, as conservators of the people, should recommend the Legislature to correct."

Mr. Gibb, of the Merchants' Committee, claimed that the railroads broke faith with the people when they agreed to carry freight for seventy-five cents per hundred, promising to deliver it in four days and then taking ten or more. He said, "if we want to ship at low rates on long time, we can ship goods around by the way of New London, which route will deliver goods as quick as the pool lines." In reply to a question of the Commissioner, he said:

"All the merchants I have seen in regard to this matter say it is a question purely of diverting their merchandise. They say the roads can form a pool or not, so long as they do the freight business fairly and to the best interests of the city of New York; but in diverting freight from one line to another it takes away our rights, and if they keep on they won't have any freight to carry."

"Q. What are the facts in regard to the delivery of goods before the pool was formed? A. Before this we had no difficulty whatever; these troubles have only crept up in the last two years."

Josiah White, Esq., also addressed the Commission, presenting valuable statistics bearing on the freight and pool question.

On the part of the Trunk Lines, Mr. Depew replied at length. He said that at the outset the trouble arises that this is one of those interstate questions, where only the New York Central could be affected. One of the batch of complaints presented was in reference to the transfer, by the Pennsylvania road, to the Delaware and Lackawanna on shipments to Pittsburg, and yet both of these corporations are Pennsylvania corporations, and run entirely outside of the jurisdiction of this State. It emphasized, in his judgment, the need of an intelligent and respectable national commission. Attention was called to correspondence between the Traders and Travelers' organization and the Trunk Line Commissioner, Mr. Fink. (See Exhibit G, p. 111.)

He called attention to the last report of this Board, declaring that, "rates should be open and alike to all similarly situated." He declared that in the railroad transportation of the country no means had yet been devised whereby this can be accomplished except by a system of pooling. A money pool had been found impracticable, and the transfer of freight to the different roads had been found to be the only practical solution of the question. He claimed that the extent of these transfers had been greatly exaggerated. During the past year out of the whole one hundred per cent of the tonnage only two and one-half per cent was transferred. Out of 11,000,000 tons shipped from New York, the complaints from the whole mercantile community of the city do not cover 10,000 tons. He claimed for this insignificant sum there was no justification in attacking the pool system of transferring freight. The changes in the dry goods trade of New York city was due to other causes besides transportation.

Describing the working of the system of transfers, he said:

"It works to prevent cutting of rates. If one of the roads cut the rates of the pool, and in that way gets an undue amount of business, it is obliged to transfer back to the line from which it took the business an amount equal to the loss at full rates, so that the line cutting down to fifty cents per hundred would have to pay to the line to which freight was transferred seventy-five cents a hundred, until it stops that sort of business. There is no kind of a doubt but that the pool just as it is conducted, with an equality and a publicity of rates which goes to prevent the system of special rates, which is so much condemned, is one of the best things that ever happened to the shipping community of this country."

THE COMPLAINT.

The complaint is made against the various Trunk Lines of railroads centering in, or having business offices in the city of New York, and

is also against the different Fast Freight Lines running over these Trunk Lines (for a list of which, with forms of bills of lading, etc., see p. 107).

The allegation of diversion of freight and an unnecessary interference with the commerce of New York city is of the gravest importance both to the merchants of New York and to the Trunk Lines — particularly such as are New York roads. The reciprocal interests of such roads and the merchant traders of New York is too apparent to need comment. A general diversion of trade from the city means ruin to the lines of transportation, and irreparable loss of the commercial supremacy of New York city and the State.

The Board has been gratified in the earnest discussion had before it by the various parties interested, and in the uniform courtesy and candor displayed, as well for exhaustive tables and exhibits supplied by both parties during and since the examination. It has the evidence before it, as will appear hereafter, that already some of the wrongs developed have been remedied by the roads, and only regrets that there still appears to be such an issue between the merchants of New York city and the Trunk Lines as calls for the official action of the Board.

FAST FREIGHT LINES.

Fast Freight Lines were originally organized to meet a demand for through supervision of freight, when shipped to a distant point. Before their organization numerous special agents were required to watch the interests of the various roads over which such freight was transported. It was the business of such agents to secure freight for their respective lines, trace lost or miscarried goods, and settle claims for loss or damage. These agents were useful and necessary both for the shipper and the railroads. But in process of time these special agencies were suspended or organized into a closer union by the roads interested, called Fast Freight Lines, and general offices were established at important points, a sufficient number of cars being contributed by these lines or by the roads to do all their freight business. In this capacity they served the useful purpose of the old line agents, and facilitated the work of transporting freight to its destination.

They now contract for rates, receipt for freight to the shipper, issue bills of lading in the place of the railroads, in fact, do the regular freight business over such roads, as their regular authorized agents. These freight lines, in some instances, are stock companies, the respective lines over which they run owning the stock, as in the case of the Merchants' Despatch, nine-tenths of its stock being held by the New York Central and Hudson River railroad and the Lake Shore road, as stated by Mr. Depew at the hearing in New York. In other cases they are coöperative lines; the *Great Western Despatch*, as stated below by Mr. Vilas, general traffic manager of the Erie, being purely coöperative. Under the system as it exists to-day, these fast freight lines do nearly all the freight business to and from distant points of shipping; shippers being assured both by their agents and by the railroads that in order to secure quick time, cheap rates, prompt settlement of claims for loss or damage, freight must be shipped *via* such lines.

At the hearing, Mr. Hayden, Vice-President of the New York Central and Hudson River railroad, said :

"The Merchants' Despatch Company is a commission line, * * * carries all our business and receives a commission of the rate for what it does. It handles the business, tends to the transportation of it, settling the claims of all the business that goes by that line."

Mr. FINK — Q. As a matter of fact can shipments be made from New York city except through these Despatch Lines? A. Yes, there are other lines.

Q. Must a shipment over the New York Central go over the Merchants' Despatch? A. No, sir.

Q. Must a shipment go over some of these lines? A. (Mr. Hayden.) If it wants to go through within a year it better.

Mr. FINK — If it is a through shipment it must. These are not given by the Erie or by the Central, but they extend all over the United States and are given by the Trunk lines. If a shipment is delivered to the New York Central, and a bill of lading of the New York Central is required, the New York Central gives them a bill of lading to Buffalo.

Mr. DEPEW — And when the shipment reached Buffalo the shipper would have to have an agent there to ship it over another line. But for this system the merchants in the city of New York could transact no business whatever.

Attention was called to the following clause in different bills of lading in use by the freight lines.

"It is further stipulated and agreed that, in case of any loss, detriment, or damage done to, or sustained by any of the property herein receipted for, during such transportation whereby any legal liability or responsibility shall or may be incurred, *that company alone shall be held answerable therefor in whose actual custody the same may be at the time of the happening thereof.*"

As to the legal responsibility for loss or damage, Mr. Depew said :

"In case of claim for loss or damage by goods shipped by the Merchants' Despatch, they regard themselves as liable. The reason for that is, the law definitely settles that a railroad company cannot be held liable for a shipment not on its own line. Now, the *Merchants' Despatch* undertakes to be liable from the point of shipment to the point of destination, anywhere on the continent, and gives a bill of lading to that effect ; when a loss occurs the Merchants' Despatch settles it, and then adjusts it between the various lines."

Mr. Vilas, general traffic manager of the Erie, said :

"The *Great Western Despatch* is one of our lines. The only difference in the organization, as compared with the *Merchants' Despatch* is, ours is what is known as a purely coöperative line ; a line which is simply part of the railroad system, run by the railroad, and the expenses of the line made up monthly and participated in in accordance with the earnings. It issues a bill of lading.

Q. Does it admit a legal responsibility for any claims made? A. No, sir ; it couldn't ; it isn't an organized institution, but the roads over which it runs admit a responsibility for the line. The Erie company practically stands sponsor for its freight lines. * * * In case of any dispute, where a suit was necessary, the shipper would have to bring suit against one of the railroad companies over which the *Great Western Despatch* runs."

In an examination made by the Board in June, 1884, on an application of the New York Board of Trade and Transportation to compel transportation companies to issue uniform bills of lading, and to fix the liability for loss or damage upon the railroad company or its agent at the point of shipment, reports were received from all the fast freight lines operating in this State, with forms of receipts and bills of lading. The substance of these reports, so far as the legal liability assumed, is fairly stated by the following:

"The Merchants' Despatch Transportation Company is a joint-stock association; it is not conducted as a department of a railroad company, neither is it an association of companies; * * * it has no road of its own like a railroad company, but its cars are hauled by the many different roads with which it has business relations. * * * It is possible that this company may be responsible because of its issue of bills of lading; but, as it earns no money from transportation, is not a carrier, but an agent for carriers; the railroad companies are really the responsible parties. As a matter of convenience to the public and the carriers, we stand between them and assume the responsibility, but for no other reason, as a matter of fact, we are not responsible except as named above."

It appears from the statements of Mr. Fink, Mr. Depew, Mr. Vilas and Mr. Hayden, as well as from the freight receipts and bills of lading and reports made heretofore to the Board, that the Fast Freight Lines operating in this State are the agents of the various railroads of the State and their connecting lines outside of the State, and that these lines are primarily organized in the interest of the railroads over whose lines they run, being, in fact, the regular agents of such lines for the procuring of freight, tracing of goods lost, and finally in settling claims and losses against their line of roads.

These Fast Freight Lines are of two kinds, one kind being joint-stock associations, or partnerships dividing the earnings received from percentages allowed on business obtained, the others are cooperative, the expenses being made up monthly and shared in by each of the railroads interested, according to their respective earnings.

It is doubtful if these lines can escape responsibility for loss on goods shipped by them when organized under the laws of the State; but the clause to bind the shipper in case of loss or damage to look to the road where it occurs, though seldom insisted upon by the railroads, nevertheless causes apprehension on the part of the shipper, and seems to have no justification except, perhaps, as a notice to the roads over which these lines operate of their individual responsibility.

It is, however, quite apparent from the above statements that as a rule even the railroads are not agreed as to where the liability rests for loss or damage when it comes to a suit at law. It may well be that in pursuance of a wise policy, as stated by Mr. Depew, losses are usually paid and claims promptly adjusted by the various lines without trouble or delay. Nevertheless the complainants' exhibits show beyond a question that this is not the uniform rule or practice, while Mr. Vilas states that: "In case of any dispute where a suit was necessary, the shipper would have to bring such suit against one of the railroad companies over which the Great Western Despatch runs."

The official communication made to the Board by the Merchants' Despatch, heretofore referred to, says :

" As a matter of convenience to the public and the carriers, we stand between them and assume the responsibility — and for no other reason ; as a matter of fact we are not responsible except as named above."

Mr. Fink said :

" This clause in the bill of lading, fixing the liability on the road on which the damage happens, has been entirely disregarded. We recognize that should a loss occur on transferred freight that the road that issues the bill of lading takes the absolute responsibility of it."

Mr. Fink, speaking for the Trunk Lines, in defending the transfer of freight, as will appear hereafter, recognizes such liability ; but enough has been shown by the above extracts to show that the complaint of the merchants in this respect is well founded, and may well cause serious apprehension on their part. The illustration given by Hon. R. F. Austin of the shipment of a valuable load of goods destroyed on a bankrupt road in the west, or on the Grand Trunk Line in Canada, is to the point. If the so-called Fast Freight Lines are to be permanent institutions in connection with the railroad system of this country, an enlightened public policy should lead the Trunk Lines at once to fix the liability for loss or damage happening upon any of their roads, either upon a responsible freight line, or upon the initial road receiving the freight.

The complainants in the several bills sent to the Board have not asked the Board to recommend any statute prohibiting the insertion in freight receipts and bills of lading of this very objectionable clause in relation to loss or damage, but express the hope that the railroad companies controlling and operating these Fast Freight Lines, with the facts brought to light during this examination, will, of their own voluntary action, remedy these grievances. This action of the complainants is probably designed to meet Mr. Depew's objection to their proposed legislation, as being inter-State commerce, the relief or legislation now asked for being confined to transfers of freight within the State. The Board, recognizing the justice of the complaints, and in view of the statements of Mr. Depew and Mr. Fink that this clause in these freight contracts is practically disregarded, see no reason why the roads should not eliminate the objectionable clause from all freight contracts made for the shipment of freight out of New York city.

The manner in which the Fast Freight Lines conduct their business with the shippers of New York city, as developed upon this examination, is justly the subject of criticism. Assuming, in their solicitation of business, all the privileges and duties of a common carrier, they appear to seek to evade corresponding liabilities ; at least some of them have been derelict in duty, and careless of the important interests committed to their care. Nor has it appeared during this examination of the questions at issue, that such organizations were absolutely necessary in order to do the business of the Trunk Lines out of New York. It is a mooted question among railroad men themselves whether these organizations have not outlived their usefulness, and become mere vampires upon commerce, fattening and growing rich out of per cent-

ages and commissions secured by tolls imposed upon freight transported over the railroads of the country.

DIVERSION OF FREIGHT.

This is a far more serious complaint. The allegation on the part of the complainants involves the most important considerations, not only to the merchants of New York city, but to every transportation line running out of the city, for upon the commerce of New York city depends the prosperity of the railroads. The allegation is: "That a pernicious system has been adopted by the various Trunk Lines centering or having business offices in the city of New York, whereby freight is diverted to other lines, resulting in great loss to our merchants."

That this freight so received "is transferred from one line to another arbitrarily and without consent of the shippers, and has been found by experience that this system has worked serious injury to the trade of New York city."

If the complaint involved specific or single instances of wrong a remedy might be applied without causing unnecessary friction or damage, but the complaint is made against a system which has been in operation for years. The parties complained of are railroad corporations representing a capital of hundreds of millions, controlling nearly all the principal lines of transportation in the United States. On the other side are a most respectable and powerful body of merchants in New York city—the gateway of the commerce of the Union—representing interest in the aggregate of as much or more capital than the whole Trunk Lines combined.

The subject of the complaint is the diversion of commerce from New York city. The history of the past is full of warning. It shows that commerce, once lost to a city, is seldom if ever regained. Never before in the history of the world have vast commercial exchanges been transacted on so small a margin. A very small fraction upon a staple article may change the whole current of its movement. The price of freight now determines the market of nearly all staple articles. Another factor, quite as potential, enters into the transactions of commerce, having a close relation to the first, and in some cases being more important. Railroads have destroyed the business of the waterways, because "time is money," and the telegraph flashes orders for goods for the lightning train to deliver. Time, regularity and system are, for commercial success, as necessary as capital or cheap freights.

In the progress of this case the merchants of New York have, with remarkable clearness, presented their grievances with well attested proofs. On the other hand, the roads have answered, not denying the system of diversion of freight, but alleging that the damage complained of is inseparable from the Pool system, which, on the whole, it is claimed, is beneficial to the merchants and the commerce of the city.

The evidence presented shows that different merchants and dealers in dry goods in New York city have suffered during the past two years in their business, by reason of goods sold by them being hindered and delayed by various railroads over which they were carried to the

point of destination. This evidence was supported by freight receipts and bills of lading with letters from customers, furnished by Messrs. Calhoun, Robbins & Co., Lee, Tweedy & Co., H. B. Claflin & Co., and others. (See Exhibit A, p. 100.)

These exhibits show that goods shipped to various points in the west by the Fast Freight Lines were diverted from the most direct route to the place of destination over longer routes, the goods being delayed by reason of such diversion, a much longer time than would have been the case had they been shipped by the most direct line. It also appears that this diversion was made from one line to another, against the direction of the shipper who marked his goods *via* the line he chose, having reference to the location of his customer. It appears, however, by reason of the organization of these fast freight and despatch lines, some being independent organizations and others cooperative, but all absolutely controlled by the various railroads over which they run, that no receipt could be had for a continuous shipment outside of the State from the railroads, the shipper being forced to ship by these lines, or employ an agent of his own at every point where one road connected with another outside of the State, to the point of destination. Every shipper must accept a contract in his bill of lading, as follows :

“ It being expressly understood and agreed that in consideration of issuing this through bill of lading and guaranteeing a through rate, the ——— Line reserves the right to forward said goods by any railroad line between the point of shipment and destination.”

The merchant is virtually compelled to accept this contract, for he must deliver his goods to his customer, and he is assured in advance that in no other way can he deliver his goods, except by despatching an agent to care for them at every connecting line outside of the State. His position is that of a shipper coerced to receive a bill of lading, which is a contract binding him to submit without recourse for the loss and damage he may suffer by reason of any diversion of his freight.

The consequences resulting from such diversion of freight appear most damaging. The merchant who sells the goods in New York is the principal loser. His customer in the far west, in some cases, refuses to receive the goods and returns them; in other cases, he demands that his bills shall be dated ahead, corresponding to the extra time his goods have been on the road, this loss ultimately falling upon the New York merchant. But this is not the most serious aspect of the case. The general trade is diverted from the city and the State. This was most forcibly urged by the merchants at the hearing. The fact was indisputably established, that goods which ought to have been delivered to customers from four to six days were detained from ten to forty days, the inevitable result of such delay being to drive customers from buying in the New York market.

The answer of the roads at the hearing shows that these Fast Freight Lines are in fact the agents of the various railroads over which they run. The question of where the legal liability rests in case of loss is of such a nature, to say the least, as to excite apprehension in the minds of the shipper, while the enforced contract to permit diversion of freight by the roads, apparently leaves the shipper without redress, except through the courts or the Legislature.

In general it may be stated, that the shipper has an undoubted right to select his own route for transporting his goods within this State, and the carrier is bound to deliver the goods at any point or connecting line on his route as directed by the shipper, the neglect or refusal thereof being gross negligence, for which the carrier is liable. In this State the courts have held that the liability may be limited by express contract. In the case of the Atchison, Topeka and Santa Fe Railroad Company *v.* Denver and New Orleans Railroad Company (110 U. S. Rep. p. 667), appeal from the Circuit Court of the United States for the District of Colorado, the court says :

" At common law a carrier is not bound to carry except on his own line, and we think it quite clear that if he contracts to go beyond he may, in the absence of statutory regulations to the contrary, determine for himself what agencies he will employ. His contract is equivalent to an extension of his line for the purposes of the contract, and if he hold himself out as a carrier beyond the line, so that he may be required to carry in that way for all alike, he may nevertheless confine himself in carrying to the particular route he chooses to use. He puts himself in no worse position by extending his route with the help of others than he would occupy if the means of transportation employed were all his own. He certainly may select his own agencies and his own associates for doing his own work."

This decision of the Supreme Court of the United States seems to justify the position of Mr. Depew and Mr. Fink in their argument as to the right of any railroad to refuse to act as a forwarding agent over other roads, except under such an agreement and upon such terms as it may choose to make. However, it may be said that the court plainly intimates in this opinion the right of any State to require connecting roads to establish joint depot accommodations and facilities for doing business with connecting roads. It will be seen hereafter that Mr. Fink admits that it is the duty of railroad companies to accept all freight offered, and to deliver the same as directed by the shipper on the line of their own road, or to such connecting road as the shipper may direct.

Commissioner Albert Fink, in a communication to the Board after the hearing (Ex., p. 117), states the position of the Trunk Lines as follows:

" The complainants claim that the railroad companies have no legal right to divert freight from the route over which the shipper directs it to be forwarded. There can be no difference of opinion as to the duty of railroad companies to accept all shipments offered, and to transport and deliver the same to a consignee on the line of their own road, or to such connecting road as the shipper may direct."

* * * * *

" I desire to call your attention to the fact that all the complaints which have been presented to you are upon freight that was contracted for, not by any individual railroad company as a common carrier, but by the Fast Freight Line associations as forwarders, with the distinct understanding printed in the bills of lading that such forwarders shall have the right to determine the route by which the freight is to be forwarded, in consideration of the duties and responsibilities which Fast Freight Line associations assume. Therefore, it must appear that in dealing with this question the State can only deal with it as far as the duties of each individual railroad company, as common carriers, are concerned. * * *

" In assuming the right to ship freight by such roads as the freight lines may select, they recognize their obligation to select only such roads as will afford like facilities ; so that as far as the prompt forwarding of shipments is concerned, it would be a matter of indifference to the shipper what route was selected. They

also desire to conform, as nearly as possible, to the directions given by the shipper as to the routing of the freight, and only depart from it in exceptional cases. * * *

"With this intention and disposition on the part of the railroad companies, it may be asked how the complaints which could have been made could have arisen; and, in explanation, I would state that the causes of these complaints have been of an accidental nature, and will, hereafter, be remedied, at least in a very great measure, if not altogether. * * *

"The question will of course be asked: why is it necessary to make any transfer at all? I admit that if it cannot be shown satisfactorily that there are good reasons for it, the practice should be abandoned altogether. The railroad companies themselves are even more adverse to this practice than the shippers can possibly be, and they have only resorted to it reluctantly and for the purpose of avoiding greater evils." * * *

These freight lines, which stand between the shipper and the roads, appear to be used to force the shipper to accept the objectionable contract, for only in this way can he get a through contract insuring the delivery of his goods. The railroads are the real parties to the contract, using the freight lines to force a contract upon the merchant which would be clearly illegal if made a condition for the shipment of his goods. It is suggestive that no freight line has put in its appearance during this examination, but the various railroads have answered for them. The conclusion of Mr. Fink in relation to the power of the State dealing with this question undoubtedly suggests the practical way of affording the necessary relief. He says:

"Therefore it must appear that in dealing with this question the State law can only deal with it as far as the duties of each railroad company as common carriers are concerned."

The Legislature, in its sovereign capacity, may compel all its railroads or transportation companies to receive and ship freight as directed by the shipper without discrimination in favor of any Fast Freight Line or otherwise.

But it is said on the part of the roads that these transfers of freight, while occasionally causing damage, on the whole are for the benefit of the merchants themselves, being a part of a wise and beneficent plan to prevent ruinous competition, which in the end affects injuriously both the railroads and the merchants. A sufficient answer to this proposition would seem to be that one of the principal parties most deeply interested, to-wit, the complainants, representing nearly all of the merchants of New York city, have appealed to this Board against this very system which is alleged to be for their best interests. Argument is not needed to show the fallacy of allowing the railroads to dictate any policy to such an intelligent body as the merchants of New York. They are the natural guardians of the commerce of the city, having built it up, and fostered it to its present imperial development. The railroad corporations, in their legitimate place of common carriers, have been the allies of the merchants, transporting the commerce created by them, as provided in their charters from the people.

But it is said, while admitting in a measure the justice of the complaints, that the small percentage of transfers of freight show, on the whole, the wisdom of the pool system. Mr. Fink stated:

"That out of 1,115,000 tons shipped from New York over the six trunk lines during the last year, only 28,000 tons, or two and one-half per cent, were actually transferred, and only a very limited number of cases have given rise to complaint, as will appear from the fact that there are made out of New York daily an average of some 4,000 shipments to different consignees, amounting to about 100,000 shipments per month; and that only forty instances of delay in diverted freight form the subject of complaint.

Replying to this statement, the Merchants' Committee say :

"If it be true that these constant transfers have been mostly of first-class freight, then the 28,000 tons of conceded transfers, when it is considered that the average weight of a shipment of dry goods to an inland dealer is only from 300 to 500 pounds (see for confirmation of this the way-bills already submitted), tell a damaging tale. Supposing the average shipment to weigh 500 pounds, which would be a high estimate, and that only 20,000 tons of the 28,126 tons transferred were of first-class freight, this would give the enormous number of 80,000 diversions of first-class freight, and would mean precisely that number of instances of injustice and wrong suffered by the shipper."

The number of transfers of freights proved and admitted by the railroads justifies the serious alarm of the merchants, and their complaints to this Board. With the keenest rivals for the wholesale trade of the West in the merchants of Chicago, St. Louis, and other western ports of entry for foreign goods, even a liability of delay in the prompt shipment and delivery of goods will, of itself, divert trade; and there can be no doubt already that the trade of New York city has, to some extent, suffered, and will continue to suffer, unless prompt and decisive measures are speedily adopted, not only as a present remedy, but as a safe guarantee against future diversions.

The importance of this proposition seems to have been fully understood by the railroads, in view of the extent of the diversions disclosed on the examination, which it may well be believed, as stated by the roads, were a surprise to them, in at once ordering all diversions of freight to stop. To this the merchants answer:

"We understand that the roads claim to have stopped transferring first-class freight. If this be true, and the Pool Lines will give the *merchants written assurance* that such transfers shall not be made, this agitation will cease."

Important commercial transactions cannot be made except upon a system of quick delivery, with no delay such as is inseparable with the pool system of transfers. It may be proper, however, to state here, that it is claimed by the merchants that the transfers of freights complained of still continue to be made.

THE POOL SYSTEM.

It is not necessary here for the Board to discuss the legality of the pool system. This has been done in the *Dry Goods Case* (p. 244, 1st Annual Report) and in the *Pro Rata Bill* (p. 77, 2d Annual Report).

That the business of the country has been and is being done by the pool is a fact which meets the Board. The relief asked for by the merchants strikes at a vital point in the whole pooling system. If by legislation or otherwise the transferring of freight is forbidden, there

is but one other alternative, and that is a money pool which both Mr. Depew and Mr. Fink declare to be a failure.

Diversions of freight are made by the Pool Lines for the purpose of limiting each company to an agreed proportion of traffic, but this is not all as stated by Mr. Fink. (Ex., p. 117.)

*"Diversions are not only made for the purpose of limiting each company to an agreed proportion of traffic, but also as a direct means for preventing the payment of rebates. When it is suspected that any of the various companies over which freight from New York is forwarded (and there are several hundred) has made special contracts in violation of their agreement to maintain the published tariffs, the freight is diverted from the route thus suspected, and forwarded by some other route which charges the full tariff. From this fact it will be explained the bitter feeling against the diversion of freight on the part of some shippers who have secured special favors from a particular route, and who, by the diversion of their shipments, are obliged to pay the full tariff, and are put on the same footing as other shippers." * * ** "In the first place, all the railroad companies, parties to an agreement to maintain rates, with their numerous agencies, become interested in discovering violations of the law, and even where such violations are only suspected (and in most cases it is impossible to obtain direct proof) effective measures are taken to prevent the same."

The advocates of the pool system claim that it is for the public good that the price for carrying freight should be fixed at a reasonable rate, and then all roads should be forbidden to go below such a reasonable rate. Experience has demonstrated that such an agreement among the roads cannot be maintained without a penalty. The penalty is the diversion of freight from the offending road to another road. Mr. Depew, at the hearing, stated:

"Now the one thing this transfer works to produce is a check to cutting. The pool is very simple. If one of the roads cut the rates of the pool, and in that way gets an undue amount of business, it is obliged to transfer back to the line from which it took the business an amount equal to the loss, at full rates, so that the line cutting might be charged fifty cents a hundred and paying to the line to which it transferred to make it up to seventy-five cents a hundred, and it stops that sort of thing."

The merchants, replying, say they do not care whether the pool exists or not, so long as their rights are not interfered with to ship goods over such line as they choose. This strikes the root of the whole matter. If a merchant may ship over any road he pleases, it inevitably follows that he may make the best bargain he can with such road. Here the pool steps in to punish both the merchant and the offending road for breaking the pool rule. It is not a question now of whether the pool is or is not for the good of the public, but it is a greater question whether the merchants and the commerce of New York city shall be subject to the control and punishment of the railroads in and out of the State. They may be the most agreeable masters and clever dictators, but commerce, that makes and unmakes railroads, cities and States, will brook no such interference with its prerogatives.

Passing by the general principles upon which the pool seeks to enforce its decrees, in the progress of this investigation it has been quite apparent that it conspicuously fails to secure uniformity in freight rates. The penalty for cutting rates may or may not, so far as the public knows, be enforced on offending roads, but it does know that the penalty falls with unrelenting severity upon the merchant shippers of

New York. The power exercised by the pool is well nigh imperial. Mr. Fink says (Ex., p.117): "Where such violations are only suspected (and in most cases it is impossible to obtain proof), effective measures are taken to prevent the same." If a railroad is suspected of contracting to ship freight for a merchant in New York at lower than pool rates, is it punished, or is the merchant punished, or both? It may be that because of the fact of inability to punish the roads, the blow is more severe on the merchants who contract at rates lower than established by the pool. Undoubtedly the diversion of the merchant's freight over a longer route to his great damage would be the most effectual punishment in his case.

The roads, however, notwithstanding the alleged penalties against them, do not obey the edicts of the pool. Mr. Gibbs, of the Merchants' Committee, at the hearing, said: "I say there is no time in the year that we can't make rates from ten to fifteen per cent better than the pool rates. A certain road here, when pool rates are seventy-five cents, offered within two weeks past to ship for fifty cents." This statement was not denied by Mr. Fink.

One of the strangest anomalies of the pool system is illustrated in these complaints from the merchants of New York city. Some New York railroads appear to be the favorite lines for western shipments for the merchants. They have ample shipping facilities in New York city and the most extensive connections all through the west. If left uncontrolled, the vast bulk of the merchandise going west would go over these roads, yet through the weird influences of the pool they are forced to divide all of their natural advantages with weaker rivals, and are made to appear, in this examination, as resisting the offers of the freight business of the merchants of New York. The rules of trade and business, which invariably reach after and grasp business, are apparently set aside and discarded, while the commerce of New York city is diverted and made a foot-ball between her own roads and roads of other States.

However much a stable and uniform system of freight charges over the railroads of this State may be desired, it is quite evident that the Trunk Lines in the end must devise some other scheme, or at least modify this so as to permit the merchants to ship over any line or route they may choose without let or hindrance.

Before dismissing this part of the subject the Board takes occasion to commend the Trunk Lines for refusing to give special rates and free passes (see Ex. pp. 111, 117), in connection with this subject of freight transfers. The Board has heretofore, on different occasions, advocated open rates to all shippers interested, with no special rates or favors to any. It hopes that the day of special rates to favored shippers has passed from the railroad system of this State, leaving every shipper to ship his goods at the lowest rate possible, but with no preference to any class or condition, each being guaranteed an equal right, on the same terms, to use the public highways chartered by the State.

CONCLUSIONS.

The Board after careful consideration of the complaint, aided by the elaborate exhibits and tables presented by both parties, find that the complaint, to-wit:

"That a pernicious system has been adopted by the various Trunk Lines centering or having business offices in the city of New York, whereby freight received by one line is diverted to other lines, resulting in great loss to merchants consequent upon an enforced bill of lading containing a provision authorizing such diversion, being unwarranted by necessity and at variance with the common-law obligations of common carriers,"

is sustained.

The remedy proposed in the bills submitted to the Board are designed to supplement the common law applicable to the common carrier, forbidding any railroad, transportation company or agency, from entering into any combination or agreement, whereby freight may be transferred or diverted from or to any line against the direction of the shipper, as indicated by the marks on the freight shipped and the bill of lading.

The question involves the commercial supremacy of New York. When the people of the State of New York, sixty years ago, opened a national water-way through their own State, bearing the burden alone, they believed that the commerce of the west through the gate-way of New York city was secured beyond question. Since that time railroads have been constructed, taking the place of the canals, and making New York city the great commercial point, not only for the west, but for the entire nation.

But in the meantime powerful rivals for this trade have sprung up in the great west. Custom-house offices have been established in inland cities, so that the import trade has, in a measure, been transferred from New York to western cities, and to-day the great factor in trade is economy of transportation, regularity and certainty of the shipment and delivery of goods from New York city.

The consequences of the diversion of trade from New York city to competitive points may well awaken the most painful solicitude. Capital will follow the diversion of trade. Ships coming to the port of New York will go elsewhere. The manufactures of the city and State which now bid fair to outstrip all competition will be destroyed. Store-houses will be vacated, labor will not be in demand, and population will decrease. So sensitive is commerce that it will not wait for these results, but it is a fact well known in commercial circles that the mere apprehension of a diversion of trade frequently decides the investor in commercial ventures. Other things being equal, the manufacturer seeks to bring his customer as near as possible to his plant. New York's geographical situation makes it imperative that her means of communication to the west be free, uninterrupted and quick. Any system of transportation by rail out of New York city, which does not allow the shipper the quickest and most direct route, with absolute freedom of choice, is on general principles vicious, and is obnoxious to the law regulating common carriers.

The importance of the question presented to the Board has led it to present the arguments, exhibits and tables, very fully, so that both parties and the Legislature may have the entire facts before them.

RECOMMENDATIONS.

The Board recommends, as a matter of sound business policy and expediency, that the Trunk Lines, particularly such as are New York

corporations, and the various Fast Freight Lines controlled by them, shall hereafter omit from their bills of lading the clause which permits freight to be diverted, and also that which compels the shipper to look to the road for redress upon which loss or damage occurs.

The insertion of the clause requiring shippers, in case of loss or damage, to have recourse to the road upon which it occurs, is designed to free the Fast Freight Lines from legal liability for such loss or damage. Provisions which are inserted in bills of lading to protect transportation companies against fraud or deceit are recognized as just and proper.

This provision is not of that character, and ought not to be insisted upon, even conceding its technical legality. The road upon which the loss occurs is liable without such a clause being in the bill of lading. Since the Fast Freight Line undertakes the service with the shipper, it ought to assume the legal liability of the carrier, and then itself settle with the road liable for the default causing loss.

The diversion of freight, in view of the obvious injury which its continued and extensive practice will cause to New York and its commerce, ought not to continue by consent of New York roads.

The question raised concern through shipments to the West, and hence it is quite certain that the most effective way to cure all the evils complained of, should they not be remedied through voluntary action, such as has already prohibited further diversion of freight, would be through national legislation.

JOHN O'DONNELL.

We concur in the recommendations of the foregoing report.

JOHN D. KERNAN.

WILLIAM E. ROGERS.

Attest : WILLIAM C. HUDSON, *Secretary*.

This matter was amicably adjusted before the Board, the complainants withdrawing from the case before the Board and from advocacy of certain legislation, and the companies agreeing to abandon the practice of diversion.

COMPLAINANTS' EXHIBITS.

EXHIBIT A.

STAR UNION LINE.

Shipment from Lee, Tweedy & Co., New York city, to Brown & Smith, Pequa, Ohio. Date of shipment November 29, 1884, and received by consignee December 16, 1884. Description of goods shipped : two cases dry goods. Diverted to Empire Line and then to West Shore. Time in transit, eighteen days ; time on Union Line should have been six days. Consignees complained that goods reached them too late for the season of trade, and demanded that part be taken back.

* * *

Shipment from H. B. Clafin, New York city, to Campbell & Duck, Pittsburg, Pa. Date of shipment November 25, 1884. Description of goods shipped : one

case dry goods, one bale dry goods, one bale carpet. Diverted to (uncertain) probably D., L. and W., and received December 15, 1884.

Shipment from Calhoun, Robbins & Co., New York city, to S. L. Fleishman & Co., Pittsburg, Pa. Date of shipment November 25, 1884. Received December 15, 1884. Description of goods shipped: one case dry goods. Diverted to Allegheny Valley Railroad; time in transitu twenty days. S. L. Fleishman says, in letter to Mr. King:

"The pooling arrangement certainly diverts trade from New York, as I know by my own case. I am ordering goods from Philadelphia by P. R. R., which I can count on receiving in three or four days, whereas from New York it may be from one, two or three weeks." * * *

Letter of Joseph Horne & Co., which Mr. King, in his testimony, says (see page 6, stenographer's minutes) is one of the largest dry goods houses in Pittsburg, Pa. They write one Mr. Jewett, as follows:

"The following list, which could be extended, will probably be sufficient information for Messrs. C., R. & Co. These goods were ordered by Star Union Line and by Pennsylvania Railroad, given to A. V. R. R. or came *via* that road:

"Shipped November 18, N. Y., Joy, L. & Co.; received November 28."

"Shipped November 19, N. Y., B., W. & K.; received November 28."

"Shipped November 20, N. Y., Aldrich, I. & Co.; received November 28."

"Shipped November 10, 14, 18, 20, 22; received December 1."

* * * * *

"November 29, J. L. Beemer & Co., received December 8, and from White, Payson & Co., shipped November 18, received December 8."

"Shipments from B. W. & K., A. & S., Aldrich, I. & Clifton, November 24 and 25, received December 15 and 20."

"Goods were in most cases ten days *en route*, and in one case thirty days. These could be extended, but they will be sufficient to show how goods were delayed and we were put to inconvenience.

"Yours, truly,

"JOS. HORNE & Co."

(Signed)

Shipment from Calhoun, Robbins & Co., New York city, to F. J. Pool, 990 N. Mad. St., Chicago, Ill. Date of shipment, December 8, 1884. Description of goods shipped: One case dry goods, directed to West Shore road. Time in transitu, from December 8, the date of shipment, to just before Christmas. Consignee returned the following goods to shipper:

(Here follows statement in detail, showing 116 lots of goods returned. Amount of bill \$152.75; evidently holiday goods.)

The following letter accompanied the above statement of goods and merchandise returned:

"CHICAGO, December 26, 1884.

"DEAR SIRS — We return the foregoing goods to you by Star Union Line at the request of your Mr. Fowler. He sent the goods on his own responsibility, but we would easily have used them and twice as many more had they come to hand in time, but we were obliged to buy the same goods in the market, as your goods only got in just before Christmas. It was not your fault, but the goods were transferred from the S. U. Line to the West Shore road, and so the delay. * * *

(Signed)

"Yours,

"F. J. POOL."

Kirschbaum & Silvernale, under date of January 6, 1885, write Mr. King as follows:

"At the request of Mr. Bailey, I forward you overcharged freight bills, the 'result of the 'Pool Line Business.' The correspondence explains itself: We ordered all goods shipped Star Union *via* Fort Wayne. The Star Union having more than their share of freight, transferred the merchandise to 'the Pool' for distribution. We are thus overcharged from our contract rate of freight and have no redress. * * * *

"Mr. Edwards, as you will perceive, declines to adjust the claim. Our rate (which is the regular rate) is sixty-seven cents per hundred. * * * *

(Signed) "Very truly,
"KIRSCHBAUM & SILVERNALE."

The following is the correspondence referred to in the foregoing letter of Kirschbaum & Silvernale to Mr. King:

"OFFICE OF KIRSCHBAUM & SILVERNALE }
"PORTLAND, IND., Oct. 24, 1884. }

"GEORGE B. EDWARDS:

"DEAR SIR—We enclose freight bill for cor. overcharge due us, \$4.96, our rate sixty-seven cents. * * *

(Signed) "Truly yours,
"KIRSCHBAUM & SILVERNALE"

STAR UNION LINE—THROUGH FREIGHT LINE.

OWNED AND OPERATED BY THE PENNSYLVANIA COMPANY.

GEORGE B. EDWARDS, *Eastern Manager.*

"PITTSBURG, PA., Nov. 8, 1884.

"Messrs. KIRSCHBAUM & SILVERNALE, *Portland, Ind.:*

"GENTLEMEN.—Returned find papers in your claim for account various shipments from Boston, New York and Philadelphia, with your favor October 24.

"On examination we find the rates charged full tariff, from which we are not deviating, and claim is therefore respectfully declined.

"Yours truly,
"GEO. B. EDWARDS, *E. M.*
"Per BRIGGS."

The following was received by the Board after the hearing in New York:

NEW YORK, January 28, 1885.

To the Honorable Board of Railroad Commissioners, Albany, N. Y.:

Enclosed please find a grievance which arrived this A. M. (Massillon, Ohio), similar in character to that forwarded yesterday (27); also, one of January twentieth, of two (2) cases (Greenville, O.) transferred to Baltimore and Ohio Railroad. * * *

I only send you these to show that the grievances still continue, as you will note by the dates of the bills of lading. * * *

Respectfully yours,
WILLIAM F. KING,
Merchant Committee.

STAR UNION LINE.

Shipped from Calhoun, Robbins & Co., to H. Falke, Massillon, Ohio, January 17, 1885. Description of goods: One case dry goods. Transferred to Baltimore and Ohio Railroad.

The following letter of H. Falke, consignee of above goods, to Calhoun, Robbins & Co., the shippers, relative to the same :

[Stamp.]

{ Ship our freight. }
 { Union Line. }

" OFFICE OF H. FALKE,
 " WHOLESALE AND RETAIL DEALER IN FANCY GOODS, NOTIONS, ETC., }
 " No. 49 EAST MAIN STREET, MASSILLON, OHIO, Jan. 26, 1885. }

" Messrs. CALHOUN, ROBBINS & Co., *New York* :

" DEAR GENTS. — I ordered goods from your agent two weeks ago, and you send me bills dated January fifteenth. I ordered to be sent by Star Union, and at the Massillon freight depot they say it was transferred to Ohio-Baltimore road. I like to know where it is, or if it ever will reach Massillon. I am very much disappointed. I am losing sales every day of that kind of goods. Please let me know.

" Respectfully yours,
 " H. FALKE."

Shipped from Calhoun, Robbins & Co., N. Y., to L. F. Bowman, Greenville, Ohio. Date of shipment January 20, 1885. Description of goods — two cases dry goods. Transferred to Baltimore and Ohio R. R.

The following is a postal card of L. F. Bowman, consignee of above goods, to Calhoun, Robbins & Co., the shippers of the same :

" Send tracer after my goods or they will never get here. I want to discount the bill, but not until my goods reach me at least. Then from date of receipt of same.

Yours, etc.,
 L. F. BOWMAN.

" Jan. 27, '85.

COMPLAINANTS' EXHIBIT No. 1.

NEW YORK, January 24, 1885.

To the Honorable Board of Railroad Commissioners of the State of New York :

GENTLEMEN. — Referring to the permission accorded by you to the several parties to the hearing before you at the Chamber of Commerce, in the city of New York, on the fourteenth instant, to submit within two weeks any further statements or papers bearing upon the case, the undersigned, on behalf of the merchants of New York, respectfully ask attention to the following :

First. To the paper marked "*Plaintiff's Exhibit No. 1,*" hereto annexed, which is a sworn statement of J. H. Hillman, who for four years has had charge of looking after delayed and lost freights for H. B. Clafin & Co., which is submitted in refutation of the claim made at said hearing by the representatives of the railroads that all losses and damages were promptly paid, and also as evidence of the injurious annoyances and delays attending shipments by reason of insufficient facilities at point of shipment, another of the evil results of the pooling system.

Second. Mr. Commissioner Fink stated at said hearing that the diversion of Pittsburg freights, and the general diversions complained of from lines having direct routes, had been stopped. In refutation we submit, first, *Exhibit B*, hereto annexed, showing merchandise shipped by Star Union Line, January 2, 1885, to Hughes & Hacke, Pittsburg, Pa., and diverted to the Baltimore and Ohio road. In this connection your attention is also called to the accompanying map showing

the long distance that this merchandise was carried out of the way, a circumstance bearing upon any delay.

Third. "*Exhibit C*," hereto annexed, showing merchandise shipped January 3, 1885, by Star Union Line to G. P. Reed, Massillon, Ohio, and diverted to Baltimore and Ohio road, which, up to January 15, 1885, had not arrived, as appears by the accompanying letter of that date from the consignee. This instance also significantly illustrates the *want of system* of this pooling system, in that the agents of the Star Union Line admit that they do not know how the Baltimore and Ohio road can get goods to Massillon, Ohio, notwithstanding the fact that the Star Union Line advertise that place as one of its principal agencies.

Fourth. As another flagrant, but by no means unusual instance of loss of goods and the annoying delays attending the efforts of the merchant to obtain a settlement for same, your attention is called to the paper marked *Exhibit D*, showing shipment of goods to Bellefontaine, Ohio, September 25, 1884, by the Globe Fast Freight Line, and never received by the consignee. The claim for loss was still unsettled January 15, 1885, as appears from the accompanying copy letter of that date to the consignor from Manager McLoughlin.

In view of the foregoing and of the other evidence heretofore presented to you, it is respectfully submitted that there can be no question of the existence of the serious grievances of which the merchants of New York complain, or of the vital importance of a *speedy and complete remedy*.

The shipper selects a transportation line on the faith of the advantages which it claims over others, and *diversions therefrom should be prohibited*.

Bills of lading should *definitely fix the responsibility for loss or damage*.

If the pooling system cannot be conducted without the diversions, uncertain liability, and other iniquities which now characterize it, it should be abandoned; and finally, if the rights of the merchant cannot be properly enforced, and his wrongs redressed under existing laws, *others should be enacted*.

We, therefore, again respectfully pray for such relief from the evils in question as it may be in the power of your honorable Board to afford

JOHN GIBB.

JAMES H. DUNHAM.

W. S. DUNN.

WILLIAM F. KING, *Secretary*,

410 Broadway, *Merchants' Committee*.

COMPLAINANTS' EXHIBIT No. 2.

NEW YORK, January 20, 1885.

STATE OF NEW YORK, }
CITY AND COUNTY OF NEW YORK, } ss.:

I have been employed four years in the shipping department of H. B. Claflin & Co. Among my duties is that of looking after delinquent railroad claims, tracers, and for lost freight, which has brought me continually in contact with the agents of the fast freight lines running over the various railways from New York city, and made me conversant with their manner of doing business, as well as with the delays, losses and annoyances consequent to the diversion of freight from one company to another.

In addition to the matter of diversion of freight there are other abuses that give shippers just cause for complaint, among which is the general lack of prompt attention to tracing goods reported not received, it being in numerous cases months before any information is to be had, also in the non payment or very great delay in the settlement of just claims, causing great annoyance, trouble and expense to shippers as well as consignees. In my intercourse with some of the representatives of the lines I have often been impressed with the idea, by their manner of treating just claims, that they had been employed with a view, chiefly, to their ability of deferring or evading, on various technical grounds, final payment of claims. The following instances are mentioned in corroboration :

On September 1, 1883, H. B. Clafin & Co. shipped a bale of domestics to Waterman, Star & Co., *Denison, Texas*, per Great Western Despatch, who were requested to trace same on October 8, 1883, as it had not arrived at destination. After calling upon the Great Western Despatch several times, without definite result, they finally, upon December 4, 1883, reported that the bale had been delivered to some firm in *Kansas City, Mo.* On December 18, 1883, upon a demand made by me, for the consignee, for the goods or payment of the same, with allowance for damage for delay, the agent of the Great Western Despatch, Mr. T. S. Dumont, stated that the bale having passed from their possession into the hands of the Missouri Pacific Railroad Company, consignees would have to look to the latter company for any compensation, but he would do what he could to assist them.

On March 14, 1884, H. B. Clafin & Co. shipped goods to Nahon Bros., Bowling Green, Ky., per Great Western Despatch, among which two (2) rolls of carpet were reported not received. Trace was started for same on April 19, 1884. No information being forthcoming, claim was presented for payment June 11, 1884; have since made numerous calls upon the Great Western Despatch for a settlement, and notwithstanding that the loss is acknowledged, the claim is yet unpaid.

On November 1, 1883, H. B. Clafin & Co. shipped a bale of goods to William Piper, Sidney, Ohio, per Empire Line; goods did not arrive in time and trace was started November 12, 1883. The Empire Line was repeatedly called upon for information, but without any result. Claim was presented for payment on April 10, 1884, and finally, after frequent urging, paid on May 31, 1884.

On September 9, 1884, H. B. Clafin & Co. shipped a case of goods to N. S. Lodekson, Mineola, Texas, per Hoosac Tunnel Line. On Nov. 5, 1884, goods not arriving, trace was started, and notwithstanding repeated calls upon the line for information, none has been received up to present time.

On September 9, 1884, H. B. Clafin & Co. shipped goods to E. A. Worden, Muskegon, Mich., per West Shore Line. Reported burned or destroyed in a wreck. Claim amounting to \$263.92 was presented on October 7, 1884. Have called upon the West Shore Line repeatedly for a settlement, but as yet without result.

On August 11, 1883, H. B. Clafin & Co. shipped a case of cloth to Wald Bro's, Louisiana, Mo., per Great Eastern Line. Trace was started for same October 3, 1883, as it had not arrived at destination. Goods finally reached consignee about November 25, 1883. On December 3, 1883, claim was presented for damages by reason of unnecessary delay for ten per cent (10) on value of goods, a greater portion of which had to be carried over to following season. The Great Eastern Line admit the justice of the claim, but owing apparently to quibbling as to where responsibility lies, this claim is still unpaid.

Numerous instances could be cited where goods have been reported short and the various lines were requested to trace same, to which no reply has ever been

made showing delivery, and are considered as settled upon the presumption that the goods have arrived as we have no further complaint from consignees.

There is also further cause for complaint against the various Trunk Lines in not receiving freight up to five (5) o'clock, P. M., as formerly, previous to the operations of the pooling system; also in forcing shippers to accept certain arbitrary forms of receipt, gotten up apparently for the purpose of evading proper responsibility.

Further serious abuses exist in the reception of freight at several of the lines, owing to lack of sufficient or competent help to remove the same, necessitating long lines of cartmen having either to wait hour after hour or turn in themselves and remove tons of freight to make room for their own goods, and thereby losing their valuable time to enrich the railway company. This is more particularly the case with the New York, Lake Erie and Western Railroads, Piers 20 and 21 North River, and the New York Central and Hudson River Railroad Company, St. John's Park Depot.

JOHN H. HILLMAN.

Subscribed and sworn to before me, }
this 20th day of January, 1885. }

[L. S.]

W. H. HUMPHREY,

Notary Public for Kings County.

Certificate filed in New York County.

ABSTRACT OF PARTS OF "EXHIBIT B."

"STAR UNION LINE—THROUGH FREIGHT LINE,

OWNED AND OPERATED BY THE PENNSYLVANIA COMPANY."

"Marks." "Hugus & Hacke, Pittsburg, Pa."	"Received at Pier 28, New York, January 2, 1885, from Lee, Tweedy & Co., in apparent good order, etc., one case D. G., to be forwarded to Pittsburg."
---	--

Transferred to Baltimore & Ohio, January —, according to statement of Star Union agent here.

(Copy of letters attached to bill of lading.)

DRY GOODS—HUGUS & HACKE.

"CORNER FIFTH AVENUE AND MARKET STREET, PITTSBURG.

"January 17, 1885.

"GENTLEMEN.—The tweed cloths bought of your house are out some sixteen days.

"Goods from New York have been out for twenty-six days. We are giving our order to Philadelphia.

"You had better look into the pool business or New York will be the loser, *

* * *

"HUGUS & HACKE."

ABSTRACT OF PARTS OF "EXHIBIT C."

"STAR UNION LINE—THROUGH FREIGHT LINE,

OWNED AND OPERATED BY THE PENNSYLVANIA COMPANY."

"Marks."	"Received at Pier 28, New York, January 3, 1885, from
"G. P. Reed,"	H. B. Clafin & Co., "in apparent good order," etc., one bale
"Massillon, Ohio."	D. G., to be forwarded to Massillon, Ohio."

Transferred to B. & O. R. R. Statement of agent here.

(Copy of letter as to above bill of lading.)

"MASSILLON, January 15, 1885.

"Messrs. H. B. CLAFIN & Co.,

"GENTS. — Your invoice of 2d inst. at hand, but up to the present time no tidings of goods. Please have them traced and oblige

"Yours truly,
G. P. REED."

(To above "Exhibit C" is also attached a printed book, entitled "Shippers' Guide, Baltimore & Ohio R. R.," &c., &c., and a foot note on letter stating this Guide does not indicate Massillon as one of their points.)

ABSTRACT OF PARTS OF "EXHIBIT D."

"GLOBE FAST FREIGHT LINE,

VIA NEW YORK, WEST SHORE AND BUFFALO RAILROAD AND CONNECTIONS."

NEW YORK, September 25, 1884.

"D. L. Rutherford,	"Received from Sweetser, Pembroke & Co., the follow-
"Bellefontaine,	ing packages, &c., one (1) case D. G., 5,966, to be forwarded
"Ohio."	to Bellefontaine."

(Copy of affidavit as to above.)

STATE OF OHIO, }
 BELLEFONTAINE, LOGAN COUNTY, } ss. :

D. L. Rutherford, appearing before me, deposes and says that the goods described by the accompanying invoice and bill of lading as having been shipped to him September 25, 1884, by Sweetser, Pembroke & Co., of New York, have never been received by him.

D. L. RUTHERFORD.

Subscribed and sworn to before me, }
 this 19th day of January, A. D. 1885. }

JOHN M. HAMILTON,
Notary Public.

(Copy of letter as to above.)

BUFFALO, January 15, 1885. B. 439.

SWEETSER, PEMBROKE & Co., P. O. Box 1392, New York :

GENTLEMEN. — Claim of D. L. Rutherford, Bellefontaine, O. I have your favor of 18th inst. relative to above-mentioned claim. In reply to same would say I have it under investigation and am in hopes, in the course of four or five days, to be able to make final answer. Would ask your indulgence a few days yet, and meantime I am

Yours truly,
 S. T. McLAUGHLIN,
 General Manager.
 B

EXHIBIT E.

NEW YORK, February 8, 1885.

To the Honorable Board of Railroad Commissioners of the State of New York :

GENTLEMEN. — We beg leave to acknowledge your communication of the twenty-sixth ult., inclosing a copy of the statement of Commissioner Fink (see defendants' Exhibit, p.), showing the total freight forwarded from New York city to points west of and including the Trunk Line termini, and also a copy of his letter accompanying the same.

Referring to the opportunity you kindly accord of making answer thereto, we have to say that we cannot see that any answer is necessary, for the reason that the statement and letter concede diversions, and thereby themselves show the justice of the complaints of the merchants. Even though the diversions were fewer than the railroads admit, the cause of the merchants would be as just as if they were numberless.

No merchant is safe if the goods of even one can be diverted at the will of the railroads. Therefore, having established diversions, be they never so few, we claim that the merchants have shown the need of remedial action.

We do not admit, however, that the offending of the roads is so slight a matter as they would have it believed, for the reasons :

1st. That the transfers have not been occasional, but substantially their constant practice. (See the New York Central and Pennsylvania Central columns of the statement showing monthly diversions.)

2d. That from the best information obtainable, by far the greatest proportion of tonnage transferred was FIRST CLASS FREIGHT, that received in return being of lower grades.

We, therefore, respectfully petition that such action may be taken as will afford permanent relief from the evil herein referred to.

We also respectfully call your attention to the matter of responsibility in drafting of bills of lading, as referred to in previous petition.

Respectfully yours,

JOHN GIBB,

of MILLS & GIBB.

JAMES H. DUNHAM,

of DUNHAM, BUCKLEY & Co.

W. S. DUNN,

of H. B. CLAFLIN & Co.

WILLIAM F. KING (of CALHOUN, ROBBINS & Co.), *Secretary.*

SUPPLEMENTARY.

We notice that Commissioner Fink, in his communication to your honorable Board, claims in substance that the associated forwarding companies, by their bills of lading, assume the responsibility of delivering freight to point of destination and properly provide for adjusting all legitimate claims for loss or damage occurring on any part of the route.

To this we reply that their bills of lading distinctly state that only the road on which the loss or damage occurs shall be responsible.

Mr. Fink also claims, on behalf of the roads, that these bills of lading, by their reserving the choice of route, do not interfere with the right of the shipper to ship by any road he may designate. We reply that this defense does not meet the issue. When a shipper, in the exercise of his undoubted right to select his line of transportation, designates a *Fast Freight* Line because of its advertised advantages, we insist that the clause reserving choice of route does not justify the roads in making such diversions as are complained of, without notice to the shipper.

With reference to what Mr. Fink says about diversions from lines found guilty of making special contracts, and about the animus of the opposition of the Traders and Travelers' Union, we will simply remark that the transportation companies which have diverted the largest proportion of freight have always maintained the full tariff rates and that we represent the merchants of New York, independent of any association or corporation.

For the Committee,

WILLIAM F. KING,
Secretary.

Accompanying this communication are two bills of lading, the *Merchants' Despatch* and the *Red Line Transit Company*, and attention is called to the following clause in the freight receipts of each :

"It is further stipulated and agreed that, in case of any loss, detriment, or damage done to or sustained by any of the property herein receipted for, during such transportation, whereby any legal liability or responsibility shall or may be incurred, that company alone shall be held answerable therefor in whose actual custody the same may be at the time of the happening thereof."

EXHIBIT F.

REPLY TO COMMISSIONER FINK.

NEW YORK, February 5, 1885.

To the Board of Railroad Commissioners, Albany :

In answer to the argument of Commissioner Fink (Deft. Ex. No. 8, see page 117), the Traders and Travelers' Union beg leave to submit the following :

While conceding the duty of railroad companies to accept shipments and transport the same over their own roads and deliver the same to such connecting road as the shipper may direct, Mr. Fink claims that the complaints presented do not arise on shipments made by Trunk Lines as common carriers, but that they arise on shipments under contracts, with a combination of railroads acting as forwarders. He seeks to justify the diversions by reference to a clause in the bill of lading whereby the Fast Freight Lines are authorized to make transfers. He argues that the considerations for this clause are, that the associated railroad companies assume the responsibility of delivering freight to a destination beyond the terminus of the initial road ; that they issue true bills of lading, and make all necessary arrangements for the transfer of the freight, settle the freight charges of each road and adjust all claims for loss or damage occurring on any part of the route. He further asserts that such contracts do not interfere with the merchant's right to ship his freight by any road he may designate, if the conditions of the Fast Freight Lines do not meet his approval.

In reply the Union respectfully submits :

1. The fact still remains that the initial road of the combined railroads, constituting the Fast Freight Lines, does not conform to the preference of the shipper, but does divert the freight from the selected route. The initial road is a party to this wrongful act, and should not be permitted to shield itself by asserting that it is in copartnership with other roads which perpetrate the same wrong. Each road must act as forwarder to the extent of delivery to the next road in the line, independent of any agreement. The law would compel this as the duty of the carrier. The performance of this common law duty furnishes no consideration or warrant for the diversion. This proposition has been settled in the analogous case of a free pass issued to a United States mail agent. Our Court of Appeals held in the case of *Seybolt v. New York, Lake Erie and Western Railroad Company* (95 N. Y. R. 562), that the railroad company was liable for an injury to the agent while traveling on such pass, notwithstanding a condition therein exempting it from liability. The court held that such condition was invalid for the reason that it was the duty of the road to carry the agent, and therefore no consideration existed for the modification of the contract.

2. Through bills of lading were issued long before the organization of the Trunk Lines' pool, and the service then rendered was quite as satisfactory as under the present system. The merchants were content to rely on the legal obligation of the initial road, in such cases, to insure delivery at the designation marked; and we have yet to learn of an instance of a connecting line refusing to accept and deliver the goods to the consignee.

3. Substantially, the combination of railroads compels the merchant to ship by these Fast Freight Lines, and every condition imposed in derogation of common law duty is an act of duress. It is idle for the pool authorities to argue that the shipper need not employ these lines. The whole argument of Mr. Fink proceeds upon the theory that, in order to obtain such freight service as the roads can furnish, these Fast Freight Lines must be employed. This is an unreasonable discrimination in favor of Fast Freight Lines, the stock of which is mainly held by the managers of the railroads over which these lines are operated.

4. The assertion that the causes of complaint by the Traders and Travelers' Union "have been of an accidental nature, and will hereafter be remedied, at least in a very great measure, if not altogether," is inconsistent with the subsequent statement that the diversion of freight complained of is necessary to make effective the methods of the Trunk Lines' pool. The merchants whose shipments, to the extent of over 28,000 tons, were diverted in the year 1884 (not to mention the more than 100,000 tons previously transferred, as shown by Mr. Fink's statement), while the percentage may seem small to the pool, justly consider it serious to themselves.

5 The assertion that freight is diverted by the pool from roads suspected to have made "special contracts in violation of their agreement to maintain the published tariffs," is not warranted by the facts. It is well known that certain large shippers in the west and south have special yearly contracts, and that the freight of these particular shippers is never diverted. Therefore, the injury falls exclusively on such shippers as have not such special contracts.

6. Referring to the purpose and operations of the Traders and Travelers' Union, and to its correspondence with him, Mr. Fink does the Union injustice. The existence of the Union was necessitated by the arbitrary operations of the pool. Recognizing that this combination of railroads is a monopoly, practically controlling the entire railway system of the United States, imposing arbitrary tariffs, in

the forming of which the merchants have no voice, a large number of the leading houses in this city united for co-operation and mutual protection against such aggression. Freight discriminations and diversions had driven a large volume of trade to other cities. Our correspondence with the pool related solely to proposed arrangements for the issue of excursion tickets to induce country merchants to visit this market. As precedents, we cited the practice prevailing among western roads leading into rival cities, notably that of the Grand Trunk Road, which thus co-operates with the merchants of Montreal at their annual trade sales. That our correspondence related exclusively to passenger business is apparent from an inspection of the letters produced by the pool representatives. We regret that the entire correspondence was not read, and to complete the record we refer to our reply to Commissioner Fink's letter of July 3, 1884, in which we cite instances of free passes and special passenger rates granted by the pool, which warranted our request. The original of which, the annexed, marked Schedule A, is a copy, was delivered personally to Vice-Chairman Pierson by a delegation of leading merchants representing the Union, on the twenty-third day of July last.

Dated February 5, 1885.

DANIEL C. ROBBINS,
President.

ROBERT F. AUSTIN,
Vice-President.

ABEL CROOK,
Counsel of the Traders and Travelers' Union,
287 Broadway, New York City.

EXHIBIT G.

NEW YORK, July 23, 1884.

ALBERT FINK, Esq., *Commissioner :*

DEAR SIR.—Your note of July third contains the following language. "If I understand the views of the representatives of these roads correctly, they are disinclined to conduct their business under a system of special rates and free passes. The roads desire to make the freight rates and passenger fares as low as they can consistently, but to make these rates and fares uniform and alike to all parties."

In reply to this we suggest that the wishes of the roads have in many instances been made to conform to the reasonable demands of the public. We remind you of a few recent precedents :

1. On May 28, 1884, tickets were issued from New York city to Indianapolis and return at the rate of twenty-two dollars and fifty cents for the round trip. This concession enabled thirty five delegates from this section to attend the Greenback Convention, held in the latter city.

2. In June, 1884, about sixty excursionists who desired to visit Louisville, Ky, were enabled to gratify their wishes at the expense of twenty-six dollars and twenty cents for the round trip. This special rate was fixed on or about June 11, 1884.

3. The members of the Grand Army of the Republic obtained, to take effect July 23, 1884, a special rate of thirty five dollars for the round trip from New York city to Minneapolis, Minn, and return. The representation of the army from this city availing themselves of this favor, to date, consist of about twenty persons.

4. The special rates granted to those desiring to attend the late political conventions, held at Chicago in the months of June and July respectively, 1884, more emphatically indicate the extent to which the roads have waived their preferences in deference to the requirements of a special class of travelers. The tariff fixed for those occasions for the round trip was twenty-three dollars and twenty-five cents. It has been publicly asserted, at a meeting of the Board of Aldermen of this city, and published in the daily papers without denial, that free passes and a special train were furnished to the representatives of the city in such Board.

We ought not to be required to instance the many other cases, necessarily within your personal knowledge, in which the roads you represent have made concessions similar to those above. In the cases cited by us the special tickets were good for from ten to twenty days. Passengers holding these tickets were not obliged to travel in any particular car, or by any specified train, or on any appointed day; but they were accorded the privileges given passengers holding the usual first-class tickets.

It is publicly known that the railroad companies represented by you grant special rates to opera companies, theatre troupes, minstrel bands and strolling players. On the other hand, a body of merchants, representing the business of the metropolis of the country, present through us a request for a reasonable concession, which will induce thousands of the former buyers in this market to return to the same, thereby benefiting the merchants of this city by increasing their sales and profiting the railroads as well by the influx of new business.

We have on file in this office the names of several thousands of western buyers who would again visit this market if proper concessions were made them by the railroads; and we are receiving daily additions to the list. Ought not these merchants to receive at least as much consideration as the special limited classes above enumerated? Is it not patent that the increase of travel by merchants to this city will inure to the decided advantage of your roads, both in their passenger and freight departments?

We again urge upon you the importance of an immediate consideration of this subject.

Respectfully,

J. V. CHENEY, *Secretary.*

DEFENDANT'S EXHIBITS.

EXHIBIT No. 1.

TRUNK LINE COMMISSION,
OFFICE OF COMMISSIONER, No. 346 BROADWAY, }
NEW YORK, *January 15, 1885.*

I inclose herewith a copy of Special Statement No. 169, which was before the meeting of commissioners yesterday, fourteenth.

This statement shows that during the year 1884 the total traffic forwarded from New York city to points west of and including the Trunk Line Western termini, was 1,107,738 tons, and of this amount 28,126 tons was transferred between the roads, which is equivalent to 2.5 per cent of the total traffic. The statement also shows the same information for each road.

Yours truly,

ALBERT FINK, *Commissioner.*

NOTE.—This statement was subsequently brought down to January 31, 1885.

OFFICE OF COMMISSIONER, REPORT DEPARTMENT, }
 NEW YORK, January 31, 1885.

SPECIAL STATEMENT No. 169 — WEST BOUND.

WEST BOUND TRAFFIC FROM NEW YORK CITY.

Showing the Tonnage transferred to and by each Trunk Road, also the proportion, the freight transferred bears to the Total Traffic of each Road, and to the Total Traffic of all Roads, for the year 1884.

MONTH.	N. Y. CENTRAL AND HUD. RIVER.				N. Y., L. E. AND WESTERN.				PENNSYLVANIA.			
	TRANSFERRED TO OTHER ROADS.		RECEIVED FROM OTHER ROADS.		TRANSFERRED TO OTHER ROADS.		RECEIVED FROM OTHER ROADS.		TRANSFERRED TO OTHER ROADS.		RECEIVED FROM OTHER ROADS.	
	Tons.	Percentage of traffic received for shipment.	Tons.	Percentage of traffic forwarded.	Tons.	Percentage of traffic received for shipment.	Tons.	Percentage of traffic forwarded.	Tons.	Percentage of traffic received for shipment.	Tons.	Percentage of traffic forwarded.
January	60	0.4	1,827	5.8	771	2.7	.....	.....	784	3.6	50	0.3
February	625	2.3	796	3.3	5,006	23.3	.....	.....	930	4.1	74	0.3
March	2,733	10.4	382	1.4	3,951	17.7	79	0.4	179	0.7	38	0.1
April	562	2.3	435	1.7	463	2.0	649	2.8	171	0.7	.....	.....
May	359	1.8	.....	.....	11	0.1	.....	.....	.....	.....	.....	.....
June	755	3.4	17	0.1	.....	.....	560	3.3	252	1.0	.....	.....
July	279	1.0	58	0.3	.....	.....	1,632	7.5	713	3.4	.....	.....
August	480	1.6	39	0.1	.....	.....	236	1.0	130	0.6	.....	.....
September	1,177	4.6	.....	.....	36	0.2	362	1.3	241	1.1	.....	.....
October	1,156	5.3	.....	.....	623	3.1	660	3.1	226	1.1	.....	.....
November	1,135	8.4	.....	.....	881	4.6	628	3.1	474	2.9	685	3.2
December .....	.....	.....	.....	.....	.....	.....	443	2.4	285	1.7	616	3.7
Total for year 1884.....	9,306	3.3	3,045	1.1	12,342	4.7	5,219	2.1	4,385	1.7	2,149	0.8
TOTAL TONNAGE, 1884.												
Received from shippers .....	.....	.....	.....	233,531	.....	.....	.....	290,147	.....	.....	264,517	.....
Actually forwarded .....	.....	.....	.....	277,180	.....	.....	.....	253,024	.....	.....	202,281	.....

SPECIAL STATEMENT No. 169 — WEST BOUND — (Continued).

MONTHS.	BALTIMORE AND OHIO.				N. Y., W. S. AND BUFFALO.				DEL., LACK. AND WEST.				TOTAL ALL ROADS.			
	TRANSFERRED TO OTHER ROADS.		RECEIVED FROM OTHER ROADS.		TRANSFERRED TO OTHER ROADS.		RECEIVED FROM OTHER ROADS.		TRANSFERRED TO OTHER ROADS.		RECEIVED FROM OTHER ROADS.		TRANSFERRED TO ALL ROADS.		RECEIVED FROM ALL ROADS.	
	Tons.	Percentage of traffic received for shipment.	Tons.	Percentage of traffic forwarded.	Tons.	Percentage of traffic received for shipment.	Tons.	Percentage of traffic forwarded.	Tons.	Percentage of traffic received for shipment.	Tons.	Percentage of traffic forwarded.	Tons.	Percentage of traffic received for shipment.	Tons.	Percentage of traffic forwarded.
January.....	96	1.6	.....	.. 0.2	268	.....	52.1	.....	.....	.....	.....	.....	1,451	1.9	1,451	1.9
February.....	216	4.2	11	0.2	5,967	.....	80.4	.....	.....	.....	.....	.....	6,838	7.2	6,838	7.2
March.....	38	0.5	73	1.0	4,644	.....	57.8	.....	426	2.2	.....	.....	5,221	4.9	5,221	4.9
April.....	.....	.....	.....	..	3,245	.....	54.0	.....	904	4.2	.....	.....	4,320	4.1	4,320	4.1
May.....	.....	.....	.....	.....	573	.....	11.0	.....	.....	.....	.....	.....	573	0.6	573	0.6
June.....	.....	.....	.....	.....	4	.....	0.1	.....	.....	.....	.....	.....	611	0.7	611	0.7
July.....	.....	.....	.....	.....	2	.....	.....	.....	224	2.1	.....	.....	1,438	1.9	1,438	1.9
August.....	.....	.....	153	2.6	.....	.....	.....	.....	19	0.2	.....	.....	438	0.4	438	0.4
September.....	.....	.....	419	6.6	.....	.....	.....	.....	.....	.....	.....	.....	721	0.7	721	0.7
October.....	.....	.....	27	0.5	225	.....	2.5	.....	96	0.9	.....	.....	1,597	1.8	1,597	1.8
November.....	.....	.....	37	0.9	323	.....	5	.....	37	0.4	.....	.....	2,298	3.0	2,298	3.0
December.....	28	0.7	100	2.6	1,056	.....	14.5	.....	312	2.6	.....	.....	2,641	3.7	2,641	3.7
Total for year 1884.....	873	0.6	885	1.2	16,300	80	0.1	18.3	2,010	1.2	1,033	0.6	28,591	2.6	28,591	2.6
TOTAL TONNAGE, 1884.																
Received from shippers.....																
Actually forwarded.....																
1,115,083																
1,115,083																

I certify that the above statement is correct.

Countersigned; C. O. MCCAIN, Chief Clerk.

Approved by ALBERT FINK, Commissioner.

H. C. BLYE, General Agent.

ANNUAL REPORT OF WEST-BOUND FREIGHT—(Continued).
 II. Consolidated Statement, showing the proportion which each class bears to the Total Tonnage.
 TONNAGE FORWARDED FROM JANUARY 1, 1884, TO DECEMBER 31, 1884.

CLASSES.	N. Y. CENTRAL.		N. Y., L. E. & W.		PENNSYLVANIA.		BALT. AND OHIO.		N. Y., W. S. & B.		DEL., LAKE, AND WESTERN.		TOTAL.	
	Tons.	Per ct.	Tons.	Per ct.	Tons.	Per ct.	Tons.	Per ct.	Tons.	Per ct.	Tons.	Per ct.	Tons.	Per ct.
I.....	57,441.99	31.5	56,879.25	22.3	65,705.09	25.0	25,554.60	57.6	20,704.35	23.3	29,855.73	13.0	285,971.74	25.6
II.....	25,356.76	9.5	16,253.57	6.4	20,943.91	8.0	4,245.06	6.2	5,850.19	6.6	11,764.69	7.1	55,876.17	7.6
III.....	14,410.61	5.2	8,309.48	3.3	10,671.21	4.1	2,639.50	5.1	3,151.82	3.5	5,900.51	3.6	45,863.13	4.1
IV.....	71,533.91	23.0	76,660.27	30.3	94,867.01	36.2	14,591.86	31.9	20,411.23	24.2	77,877.40	46.9	306,571.73	28.9
V.....	77,054.31	27.8	95,441.90	37.7	70,063.86	26.7	19,875.45	29.2	23,759.93	27.4	40,347.27	24.4	331,549.24	30.8
Total.....	277,180.06	100.0	253,084.55	100.0	263,230.67	100.0	65,006.47	100.0	88,867.60	100.0	125,675.64	100.0	1,115,033.01	100.0

I certify that the above statement is correct.

H. O. BLYE, General Agent.

Countersigned: C. C. McCAIN, Chief Clerk.
 Approved by ALBERT FINK, Commissioner.

EXHIBIT No. 2.

[No. 1082.]

OFFICE OF COMMISSIONER, REPORT DEPARTMENT, }
 NEW YORK, *January 27, 1885.* }

ANNUAL REPORT OF WEST-BOUND FREIGHT FROM NEW YORK CITY,
 FOR THE YEAR 1884.

Showing, 1. The tonnage received from shippers, transferred and forwarded by each road, during the year 1884, with percentages.

2. Consolidated statement, showing the proportion which each class bears to the tonnage forwarded during the year 1884.

NOTE.—For tonnage forwarded during the period from July 1, 1877, to December 31, 1883, see Report No. 1012, issued March 6, 1884.

1. From January, 1884, to December 31, 1884.

Classes.	ROADS.	TONNAGE RECEIVED FROM SHIPPERS.		TONNAGE TRANSFERRED.		TONNAGE FORWARDED.	
		Tons.	Per ct.	By.	To.	Tons.	Per ct.
I.	N. Y. Central.....	91,518.00	32.1	4,544.24	473 14	87,441.90	30.6
	N. Y., L. E. & Western ..	56,756.67	19.9	2,629.60	2,252.16	56,379.33	19.8
	Pennsylvania.....	68,015.25	23.8	2,279.56	.....	65,735.69	23.0
	Baltimore and Ohio	25,243.13	8.8	182.55	495.02	25,554.60	8.9
	N. Y., W. S. and Buffalo ..	14,324.65	5.0	.....	6,379.70	20,704.35	7.2
	Del., Lack. and Western ..	29,819.95	10.4	0.04	35.87	29,855.78	10.5
	Total	285,671.74	100.0	9,636.89	9,636.89	285,671.74	100.0
II.	N. Y. Central.....	27,629.51	32.4	1,290.22	19.47	26,356.76	30.9
	N. Y., L. E. and Western ..	15,857.03	18.6	340.31	716.85	16,233.57	19.0
	Pennsylvania.....	21,388.18	25.0	444.37	0.10	20,943.91	24.5
	Baltimore and Ohio	4,181.98	4.9	1.46	64.56	4,245.06	5.0
	N. Y., W. S. and Buffalo ..	4,554.83	5.3	.....	1,275.36	5,830.19	6.8
	Del., Lack. and Western ..	11,764.66	13.8	.....	0.02	11,764.68	13.8
	Total	85,376.17	100.0	2,076.36	2,076.36	85,376.17	100.0
III.	N. Y. Central.....	15,482.90	33.8	1,122.59	50.30	14,410.61	31.4
	N. Y., L. E. and Western ..	8,232.22	17.9	217.33	224.51	8,309.48	18.1
	Pennsylvania.....	10,729.73	23.4	70.26	11.74	10,671.21	23.2
	Baltimore and Ohio	3,229.61	7.2	0.45	150.34	3,439.50	7.5
	N. Y., W. S. and Buffalo ..	2,254.13	4.9	.....	897.69	3,151.83	6.9
	Del., Lack. and Western ..	5,894.47	12.8	.....	6.04	5,900.51	12.9
	Total	45,883.13	100.0	1,410.62	1,410.62	45,883.13	100.0
IV.	N. Y. Central.....	70,854.27	19.3	1,100.55	2,180.19	71,933.91	19.6
	N. Y., L. E. and Western ..	77,708.56	21.2	2,983.31	1,937.03	76,660.27	20.9
	Pennsylvania.....	95,795.98	26.1	1,583.22	659.25	94,867.01	25.2
	Baltimore and Ohio	14,939.15	4.1	127.76	80.47	14,891.86	4.1
	N. Y., W. S. and Buffalo ..	27,679.61	7.6	75.07	2,806.74	30,411.28	8.4
	Del., Lack. and Western ..	79,594.16	21.7	1,786.76	.....	77,807.40	21.2
	Total	366,571.73	100.0	7,683.67	7,683.67	366,571.73	100.0

REPORT OF WEST-BOUND FREIGHT—(Continued).

Classes.	ROADS.	TONNAGE RECEIVED FROM SHIPPERS.		TONNAGE TRANSFERRED.		TONNAGE FORWARDED.	
		Tons.	Per ct.	By.	To.	Tons.	Per ct.
V.	N. Y. Central.....	78,051.41	23.6	1,338.32	321.72	77,034.81	23.3
	N. Y., L. E. and Western..	101,522.90	30.6	6,169.80	18.80	95,441.90	28.8
	Pennsylvania.....	68,587.16	20.7	2.13	1,477.82	70,062.85	21.1
	Baltimore and Ohio.....	19,904.06	6.0	66.28	34.71	19,872.45	6.0
	N. Y., W. S. and Buffalo..	28,854.30	7.2	5.47	4,941.13	28,789.96	8.7
	Del., Lack. and Western...	39,559.41	11.9	222.83	1,010.69	40,347.27	12.1
	Total	381,549.24	100.0	7,804.87	7,804.87	331,549.24	100.0

SUMMARY OF TONNAGE.

N. Y. Central.....	233,531.18	25.4	9,395.92	3,044.32	277,180.08	24.9
N. Y., L. E. and Western.....	200,147.45	23.3	12,842.24	5,219.34	253,024.55	22.7
Pennsylvania.....	304,516.30	33.8	4,864.54	2,148.91	292,220.67	23.5
Baltimore and Ohio.....	67,356.91	6.1	378.54	535.10	68,008.47	6.1
N. Y., W. S. and Buffalo.....	72,697.32	6.5	60.54	16,200.62	88,887.60	7.9
Del., Lack. and Western.....	166,632.65	14.9	2,009.63	1,032.62	165,675.64	14.9
Grand total	1,115,052.01	100.0	28,591.41	28,591.41	1,115,052.01	100.0

EXHIBIT No. 3.

LETTER FROM COMMISSIONER ALBERT FINK IN RELATION TO THE DIVERSION OF FREIGHT.

To the Hon. Board of Railroad Commissioners, State of New York :

NEW YORK, January 29, 1885.

GENTLEMEN—Bearing upon the complaint of merchants of the city of New York and of the Traders and Travelers' Union regarding the diversion of freight by the various New York trunk lines, I beg to submit a brief outline of the railroad side of the question.

The complainants claim that the railroad companies have no legal right to divert freight from the route over which the shipper directs it to be forwarded. There can be no difference of opinion as to the duty of railroad companies to accept all shipments offered, and to transport and deliver the same to a consignee on the line of their own road, or to such connecting road as the shipper may direct. For example, freight delivered to the New York Central Railroad for shipment to Buffalo cannot legally be diverted to any other line; and if the shipper directs that the New York Central Company shall deliver the freight to any particular line to be carried from Buffalo west, the New York Central Company would be legally bound to carry out the directions of the shipper and make delivery accordingly. The responsibility, however, for the delivery of the goods, on the part of the New York Central Company would cease at Buffalo.

The complaints as to the diversion of freight, which have been presented to you, do not arise on shipments of this character made by the trunk lines as common carriers and under the conditions named, but they arise on shipments made

under contracts with combinations of a number of railroads acting as forwarders, and in cases where the freight is to be carried over a number of railroads. These associated companies assume the responsibility of delivering the freight to point of destination beyond the terminus of the road which originally receives the freight. They issue through bills of lading to point of destination and make all proper arrangements for the transfer of the freight from one road to another, for settling the freight charges of each road, and adjusting all legitimate claims for loss or damage occurring on any part of the route, thus relieving the shippers from the great trouble, annoyance and expense dependent upon making separate arrangements with each road over which the freight passes.

The fast freight line organizations greatly facilitate the prompt delivery of goods, and are acknowledged to be a great advantage to shippers. The services which these fast freight lines render to the shippers, in acting as forwarders of their freight, are rendered without any compensation, and simply from the desire on the part of railroad companies to improve and facilitate the commerce of the country.

The associations of railroads, termed fast freight lines, are, of course, entirely voluntary associations. It is the privilege of each railroad company to form these associations with such roads as it may choose, and to decline to form them with other roads which it does not wish to take into a joint arrangement of this kind. I take it for granted that the State has no right to compel any railroad company to become a partner in the forwarding business with any other railroad company; because responsibilities are to be assumed, one company for the other, and each company must be left free to judge for itself as to the selection of its partners. I also take it for granted that the State has no power to select for such freight line associations the routes over which they shall carry on the forwarding business. If any of these associations hold themselves out as forwarders of freight by such lines as they may choose, and the shipper does not choose to contract with such forwarder, he can select his route, and attend to the forwarding of the freight himself.

The bills of lading issued by these fast freight lines clearly state that, in consideration of giving a through bill of lading and of assuming the responsibility for the delivery of the shipment at point of destination, they reserve for themselves the right to choose the route over which shipments are to be sent; and it is under this clause of the contract that the diversions of freight have been made. The railroads further claim that such contracts do in no way interfere with the right of the shipper to ship any freight by any road he may designate, if the reasonable conditions made by the fast freight lines, as to the selection of route, does not meet his approval.

I desire to call your attention to the fact that all the complaints which have been presented to you are upon freight that was contracted for, not by any individual railroad company as a common carrier, but by the fast freight line associations, as forwarders, with the distinct understanding, printed in the bills of lading, that such forwarders shall have the right to determine the route by which the freight is to be forwarded, in consideration of the duties and responsibilities which such fast freight line associations assume. Therefore, it must appear that in dealing with this question the State can only deal with it as far as the duties of each individual railroad company, as common carriers, are concerned. Each road must accept whatever freight is offered to it and transport the same over its own line to points on its own line, or deliver it to such connecting line as the shipper may designate.

This, I believe, is a correct definition of the rights of the railroads and the rights of the shippers. The difficulty is that the shippers do not clearly understand this, and they demand the advantages of the contract, without being willing to submit to the reasonable conditions under which these advantages are granted.

But it is not upon the legal grounds that the railroad companies desire to rely for their defense of the practice of diverting freight, nor do they desire, by withdrawing the facilities now offered the shippers, to force them to submit to that practice or to suffer any injury from it.

It is the most sincere desire of the railroad companies to continue to furnish all the facilities of through shipment as heretofore, and to take all possible measures to prevent the practice of diverting freight from resulting in injury to any individual shipper or to the commerce of the city of New York. In assuming the right to ship freight by such roads as the freight lines may select, they recognize their obligation to select only such roads as will afford like facilities; so that as far as the prompt forwarding of shipments is concerned, it would be a matter of indifference to the shipper what route was selected. They also desire to conform, as nearly as possible, to the directions given by the shipper as to the routing of the freight, and only depart from it in exceptional cases.

With this intention and disposition on the part of the railroad companies, it may be asked how the complaints which have been made could have arisen; and, in explanation, I would state that the causes of these complaints have been of an accidental nature, and will hereafter be remedied, at least in a very great measure, if not altogether.

By referring to the list of complaints submitted to your Honorable Board, copy of which was furnished this office, you will notice that the majority of the complaints refer to freight shipped during February, March and April, 1884. At that time the difficulty arose from the transfer of freight to a new line that had become one of the associated roads over which through bills of lading were issued, and which road was not then prepared, as has since been shown, to give the same facilities and dispatch to through shipments as the older lines. As soon as this fact was discovered, in May last, and in order to remove the grounds of complaint, transfers to that line were suspended during the succeeding month, until October, 1884, when they were resumed to some extent; the expectation being that the difficulties formerly existing had been overcome. I regret to say that, judging from the complaints arising from diverted shipments made during the month of December last, we have been disappointed in that expectation, and we recognize the obligation to apply the proper remedy, and steps to that end have already been taken.

I make this statement to show that while convinced of our legal right, under the contract made with shippers, to make these transfers, we do not expect, in so doing, to cause any inconvenience or injury to the shippers. In support of this declaration, I call your attention to the evidence given before the Commission, at the hearing of January fourteenth by the chief complainant, who stated that his claims for damages sustained on diverted freight had, upon application, been promptly adjusted. It seems to me that in a fair representation of their grievances this important fact should have been candidly stated, as it throws an entirely different light upon the nature of the complaints, and shows that the railroad companies do not willfully and arbitrarily deal with the shippers, but recognize it as their duty to prevent injury, and must be as anxious to avoid delays and the consequent liability to pay damages resulting therefrom, as the shippers are to secure the prompt transportation of their freight.

As further evidence that there is an inclination on the part of the complainants to exaggerate their grievances, we have already submitted to your Board a state-

ment showing the amount of freight actually transferred during the year 1884, from which it appears that out of 1,115,000 tons shipped from New York over the six Trunk Lines during the year, only 28,000 tons, or two and one-half per cent, were actually transferred; and only a very limited number of cases have given rise to complaint, as will appear from the fact that there are made out of New York daily, an average of some 4,000 shipments to different consignees, amounting to about 100,000 shipments per month, and that only forty instances of delay in diverted freight form the subject of complaint, thirty-seven of which arise from transfers made to the new line. I take these figures from a report to you of the Traders and Travelers' Union, published in the *New York Times*, January 29, 1885. From this it does not appear that the evil is of such great magnitude as has been represented; though, of course, it is proper that we should use every means to prevent the occurrence of a single case.

It must also be borne in mind that delays occur, not only on transferred freight but on all kinds of freight, and it is by no means certain that if freight had not been transferred delays would not have happened. No matter what may be the cause of the delay of freight, it is now generally ascribed, without due investigation, to the transfer, as is evidenced by the fact that several cases of delay complained of happened to goods not transferred; and complaints have been made to this office of delays attributed to the transfer of goods shipped in 1883, when not a single transfer was made during that year. I merely mention this to show the natural tendency toward exaggeration of the grievances in the minds of the complainants.

To present to you the exact facts of the case, I herewith submit a statement of the quantity of freight shipped since the railroads commenced to transfer freight, in July, 1877; the number of tons shipped from New York by the rail lines, the number of tons transferred, and the proportion which the transferred freight bears to the total shipments made in each year, from July 1, 1877, to December 31, 1884. This statement may also be of interest as showing that since 1877 and 1878 there has been an increase of about fifty-five per cent in the shipments made from New York, which may be considered as evidence that the trade of New York cannot have suffered as much from the transfer of freight as is feared by the complainants. The statement is as follows:

PERIODS.	Tons carried.	TONS TRANSPORTED.	
		Tons.	P. c. of total.
July 1 to December 31, 1877	374,250	33,908	9.1
Year 1878	715,808	23,480	3.1
Year 1879	808,770	23,149	2.7
Year 1880	986,013	20,347	2.1
Year 1881	1,198,097	6,253	0.5
Year 1882	1,363,708	No transfers.	.....
Year 1883	1,186,220	No transfers.	.....
Year 1884	1,115,062	28,126	2.6

WHY TRANSFERS ARE MADE.

The question will, of course, be asked: Why is it necessary to make any transfer at all? I admit that if it cannot be shown satisfactorily that there are good reasons for it, the practice should be abandoned altogether. The railroad companies themselves are even more averse to this practice than the shippers can

possibly be ; and they have only resorted to it reluctantly and for the purpose of avoiding greater evils.

The object of the methods adopted by the railroad companies is to secure the maintenance of published tariffs, to prevent ruinous competition between themselves and its injurious consequences to public interests, namely, unjust discrimination between shippers and commercial communities, and uncertain and fluctuating freight charges.

The complaining merchants of New York have probably forgotten the state of affairs that existed in 1876 or 1877, when no fixed tariffs were maintained, each road contracting with shippers at such rates as it saw fit. Appeals were then made to the railroad companies to remedy this injurious state of affairs, and it was in conformity with that request that finally, in July, 1877, the four trunk lines united in an agreement to adhere to their published tariffs and secure the same rates to all shippers for the same services ; and in the carrying out of the said agreement it was necessary to resort, to some extent (shown in the above table), to the transfer of freight. Although it cannot be said that these measures have completely accomplished the purpose in view, yet they have done much to mitigate the evils that formerly existed. * * *

But, considering that the shipments out of New York alone pass over several hundred different railroads, and the strong temptation to some roads to secure an increase in their traffic by making secret reductions from the open and published tariffs, and the desire and great effort on the part of each shipper to secure special concessions in his own favor ; and further, considering the fact that any one of these many roads, without the control or knowledge of the others, can readily make such concessions, and oblige the others, in self-protection, to do the same, the difficulty of carrying out the agreements which the railroad companies enter into for the purpose of maintaining their published tariffs and to avoid the evils of which both the public and the railroad companies alike have to complain, will be better appreciated.

What means can be adopted by the railroad companies to protect themselves against each other and to protect the public ? It cannot be done by legislation, that is clear. But some restraint must be imposed both upon the railroad companies and on shippers, to prevent them from entering into these secret arrangements. The public have a right to demand the strict adherence to well constructed, just and reasonable tariffs. The question how this just claim can be complied with has engaged the attention of railroad companies for a long time, and they finally have resorted to methods which they believe can be made effective, and one of these methods necessitates the diversion of freight complained of in this case.

The uncontrolled competition between railroad companies, each striving to secure the largest amount of traffic, by whatever means it may be possible, is the fundamental cause of unjust discrimination and of constantly-varying tariffs. This competition, or rather strife, between the railroad companies is inconsistent with the intent and purpose of the common law, according to which the carriers should make like charges for like services. When a number of railroad companies can render like service, it is absolutely necessary that they should either voluntarily agree or should be made to agree upon the charges to be made by all alike, for such like service. If each one of the several hundred railroad companies were to make a different charge for the same service — and there is no law to prevent them from doing so — the common-law principle cannot be carried out. Each carrier may, for itself, conform to the common law ; but the separate action of many brings about the same result as if each company violated it.

From the multiplication of independent competing lines, and their strife with each other, and not necessarily from the illegal action of any one company, results the unjust discrimination so much complained of, and also results the impossibility of its suppression, either under the common law or statute laws of States or Congress. No one railroad company can be held responsible for this unjust discrimination. Where, then, is the remedy? It must be sought by removing the cause of evil. The railroad companies which can render like service to the shippers must agree upon like charges for such service, and these charges must be reasonable and just. The agreed joint tariff should be published and maintained alike to all shippers situated alike. Next, measures should be taken to prevent deviations from the agreed tariff and this, it will be admitted, can best be accomplished by removing the motive for making secret concessions by the payment of rebates or otherwise.

For that purpose, railroad companies, competing for the same traffic, each agree to limit themselves to carry what may be considered a fair proportion of the total traffic. These proportions are agreed upon as nearly as practicable in accordance with the amount that each road would likely receive on its own merits from the public, or with the amount they might receive if they were all to engage in a rate-demoralizing strife. If any company should happen to exceed its proportion, it agrees to have its excess freight carried by some other road offering equal facilities that has not received its full proportion, thus making it necessary to transfer a limited quantity of freight from one road to another. This removes, at once, by striking at the root of the evil, the motive for deviating from the published tariffs, and thereby prevents unjust discrimination. The measures adopted by the railroad companies, of which the diversion of freight forms a part, are, therefore, for a lawful purpose and in the interest of the public; they are a simple, practicable means of enforcing the common-law principle which it is impossible to enforce by statute laws, for the reasons above stated.

In dealing with this complicated subject, it is certainly better and wiser to adopt such measures as will remove all motive for the violation of the law, than to rely upon the enforcement of penalties by the tedious and expensive process of litigation, after the law has been violated and the wrong has been committed. Especially is this true since, as I have explained, it is almost impossible to discover such violations. Instead of adopting measures that will make each railroad company, for selfish purposes, transgress the law, it is much better to adopt measures that will make it to the interest of every railroad company to obey the law. Upon these correct principles the methods adopted by the railroads are based, and they should be considered in that light.

Diversions are not only made for the purpose of limiting each company to an agreed proportion of traffic, but also as a direct means for preventing the payment of rebates. When it is suspected that any of the various companies over which freight from New York is forwarded (and there are several hundred) has made special contracts in violation of their agreement to maintain the published tariffs, the freight is diverted from the route thus suspected, and forwarded by some other route which charges the full tariff. From this fact will be explained the bitter feeling against the diversion of freight on the part of some shippers who have secured special favors from a particular route, and who, by the diversion of their shipments, are obliged to pay the full tariff and are put on the same footing as other shippers. This may also explain the opposition of the Traders and Travelers' Union to these methods, that being an organization whose avowed purpose is to secure for its members lower rates of transportation than

are given to the general public, as appears from the correspondence which was submitted to your Board at the hearing of the 14th of January.

* * * * *

Your Honorable Board, in its last report, has laid it down as a rule that the railroad companies should strictly adhere to the published tariffs. The action of the railroad companies, therefore, in adopting these measures, is for the very purpose of enforcing that rule. * * *

If the interference of the Legislature is to be invoked, it should be in the direction of supporting the action of the railroad companies and strengthening them in their effort to conform to the common law, and to protect them against the efforts made by such organizations as the Traders and Travelers' Union, whose avowed and illegal purpose it is to secure for its members special privileges that are not given to the general public.

Unfortunately, the difficulties of the railroad problem are not fully understood by the public, by the courts or by our law-makers; and hence the improbability of their judging correctly of such practicable remedies as it is in the power of the railroad companies to apply. It is a singular fact that while the railroads are greatly abused for the existence of evils, for many of which they are not responsible, and which they deplore as much as the public does, their efforts at reform meet with the greatest opposition. While, on the one hand, they are expected to institute reforms, on the other hand they are to be legally prohibited, as is attempted in the Reagan bill, from adopting the only practical method by which the evils complained of can be remedied.

I trust a more thorough investigation of this subject than it has yet received from Legislatures or officers of the State will do much to remove existing prejudices and put the efforts of the railroad companies to deal with these complicated questions in an effective and practical way, in their proper light before the public.

Respectfully submitted,

ALBERT FINK.

EXHIBIT No. 4.

NEW YORK CENTRAL AND HUDSON RIVER R. R. Co.,
OFFICE OF THE THIRD VICE-PRESIDENT, GRAND CENTRAL DEPOT, }
NEW YORK, January 30, 1885. }

The Honorable the Board of Railroad Commissioners, Albany, N. Y. :

SIRS.—At your recent hearing in New York, concerning the transfers of freight between the Trunk Lines, Mr. John Hillman, of Messrs. H. B. Claffin & Co., stated that Mr. Bond, agent Blue Line, informed him in regard to a certain claim that the freight had been transferred to the Baltimore and Ohio Railroad, and that he could do nothing further in the matter.

I had already stated that I could not imagine that any agent of our lines would treat a shipper in this manner, and answered Mr. Hillman's charge by the statement that I would investigate and report further.

In accordance with that promise, I have the honor to inclose herewith correspondence with Mr. Crawford, our general agent, and with Mr. Bond, including an affidavit from the latter, and copies of tracers which I trust will appear to you to sustain my statements in the matter.

Very respectfully yours,

H. J. HAYDEN,
Third Vice-President.

H. J. HAYDEN, *Third Vice-President and General Traffic Manager :*

NEW YORK CENTRAL AND HUDSON RIVER R. R. CO.,
 GRAND CENTRAL DEPOT,
 NEW YORK, January 26, 1885. }

R. L. CRAWFORD, Esq., *General Eastern Freight Agent, N. Y. :*

DEAR SIR.— In the recent hearing before the Railroad Commissioners, Mr. John Hillman, of Messrs. H. B. Clafin & Co., stated that he had a claim against the Blue Line on freight which was transferred to the Baltimore and Ohio, I think in January.

Mr. Hillman claimed that he saw Mr. Bond at once (and twice) who gave him no satisfaction, but simply said that it went by Baltimore and Ohio, and he had nothing more to do with it. Will you please ask Mr. Bond whether this statement is true or whether, on the contrary, he did all that he could to have the matter settled and treated the claim just as though the freight had gone by the Blue Line, in accordance with the bill of lading?

Please answer soon and have Mr. Bond make affidavit in the matter, if it will contradict Mr. Hillman's statement.

Yours truly,
 H. J. HAYDEN,
Third Vice-President.

GREAT CENTRAL ROUTE — "BLUE LINE,"
 OFFICE OF THE NEW YORK AGENCY,
 NEW YORK, January 29, 1885. }

B. B. MITCHELL, *General Manager, Rochester, N. Y.*
 WM. BOND, *Agent, 319 Broadway, New York.*

R. L. CRAWFORD, Esq., *G. E. F. A., N. Y. C. and H. R. R., City :*

DEAR SIR.— Returning herewith letter of Mr. Hayden's, January 26th, relating to statement of Mr. John Hillman, of H. B. Clafin & Co., concerning shipment diverted to Baltimore and Ohio Railroad, and that he should look to them (B. & O. R. R.) for settlement of claim, have to say Mr. Hillman never called on me but once regarding this claim, which fact he acknowledged to me in person to-day. At that time I may have told him the claim was in the hands of the "Baltimore and Ohio Railroad" for adjustment. I think most likely I did, as it was the fact, but I never told him I had nothing more to do with it, and never considered my duty in the matter ended until the claim had been paid.

The tracing attached to the claim is in the hands of Baltimore and Ohio Railroad, and the hereto attached copies of correspondence will show that I did all in my power towards having the matter settled.

I never, in any instance, attempt to shirk our responsibility to the owners of the property delivered to us in claims of this nature; on the contrary do all I can to have them promptly settled just as if we had carried the freight.

In submitting this statement, trust it will meet with approval.

I remain, yours truly,
 WILLIAM BOND,
Agent.

Sworn to before me,
 this 29th day of January, 1885. }
 WILLIAM F. LEFT,
Notary Public for Kings County
 Certificate filed in New York.

BLUE LINE.

The following is the correspondence between the agents and officers of the railroad companies and others relative to above shipment :

Shipped from H. B. Clafin & Co., N. Y., to Baird & Sherwood, McGregor, Iowa. Date of shipment September 22, 1884. Description of goods : Two (2) cases dry goods. Transferred to Baltimore and Ohio R. R.

GREAT CENTRAL ROUTE — "BLUE LINE,"
OFFICE OF THE NEW YORK AGENCY, }
NEW YORK, Dec. 2, 1884.

B. B. MITCHELL, *Gen. Manager, Rochester, N. Y.*
WILLIAM BOND, *Agent, 319 Broadway, New York.*

GENTS. — The shipment, Sept. 22d, consigned to Baird & Sherwood, McGregor, Iowa, was diverted to B. & O. R. R., and their attention has been directed to this case, and to advise me result.

Yours truly,
WM. BOND, *Agent.*
B.

GREAT CENTRAL ROUTE — "BLUE LINE,"
OFFICE OF THE NEW YORK AGENCY, }
NEW YORK, Dec. 6, 1884.

B. B. MITCHELL, *Gen. Manager, Rochester, N. Y.*
WM. BOND, *Agent, 319 Broadway N. Y.*

Messrs. BAIRD & SHERWOOD, *McGregor, Iowa:*

GENTS. — Shipment of two cases dry goods consigned to you Sept. 22, for which tracer was started; am advised that one case was delivered Oct. 6th, the other case being still short.

If you will send original B. L. freight bill for case delivered, and bill for goods short at invoice price, claim will be filed for amount.

Yours truly,
WM. BOND, *Agt.*
B.

EXHIBIT No. 5.

NEW YORK, *February 2, 1885.*

To the Honorable Board of Railroad Commissioners of the State of New York:

GENTLEMEN — I have received from the Secretary of the Board, after completing my communication to you of January twenty-ninth, copy of the brief submitted by the Traders and Travelers' Union in the matter of the diversion of freight.

As the time fixed by you for considering this case will not admit of my commenting, in detail, upon the arguments contained in the brief, I merely desire to call your attention to the object of the association, your petitioners, the Traders and Travelers' Union, and for that purpose I herewith inclose copy of correspondence with, and extracts from, statements made by officers of that association, which were read before your Board on January fourteenth.

First. Extracts from proceedings of meeting held at this office on July 25, 1884, showing remarks by Mr. Daniel C. Robbins, the present president of that association, and of Mr. Steward.

Second. Letter of Mr. Russell P. Hoyt, general manager Traders and Travelers' Union, dated June 25, 1884.

Third. Reply to the communication from the Traders and Travelers' Union, dated July 8, 1884.

I do not want to burden you with the whole of the correspondence, as I believe the inclosed is sufficient to indicate that the object of this association is in direct opposition to the rule laid down by your Commission, that the railroad companies should strictly adhere to their published tariffs, and grant no special privileges.

Glancing cursorily over the brief, I notice that the counsel for the Traders and Travelers' Union has misunderstood the position of the railroads. I quote from page 5 of the brief :

"The counsel for the road stated that if such conditions were eliminated it would refuse to act as forwarder, and would not deliver the goods to the next route in the line of transit."

I have stated in my communication of January twenty-ninth, that the Trunk Lines understand it to be their duty, as common carriers, to receive goods and deliver the same at any point on the line of their own road or to a connecting road, as may be directed by the shipper ; but it is not their duty, and it cannot be made their duty by any legislation, to act as forwarders beyond the line of their own road and assume responsibility for the delivery of the goods over other roads. If, however, they should assume such responsibility, they also have a legal right to name the conditions under which they assume it.

The arguments in the brief are directed against a position which the railroad companies do not assume, and hence they can have no bearing upon the subject.

To complete the statements submitted by this office, I herewith send you reports showing the transfers of freight made during the year 1884.

* * * * *

Respectfully yours,
ALBERT FINK.

EXTRACTS FROM PROCEEDINGS OF MEETING HELD AT 346 BROADWAY, NEW YORK, JULY 25, 1884.

MR. DANIEL C. ROBBINS. — * * * Whatever we do with you will be in the form of private negotiation. We want, in a few words, to get as favorable rates for customers in western cities as possible ; as favorable rates in the prosecution of their purchase of merchandise as possible. We do not intend to operate publicly.

* * * While the association is publicly organized for effective operation, it is really a private body. It seeks its own private interests ; that is, the interest of the members constituting the company, and who are organized together to make, if possible, better terms than we have heretofore made with the railway companies. We were called together to-day to consider the matter of passenger rates ; that is, the invitation of our customers to this city by return tickets, by special reduction fare tickets. There has been considerable correspondence between us and Mr. Fink on the subject. A letter was addressed to Mr. Fink on the twenty-fifth of June, and no reply being received, another was sent him on the third of July. To this latter he replied on the same date, stating that his committee had not met yet.

* * * * *

THE ASSISTANT COMMISSIONER — What particular sort of special fares do you desire — for single trips, for parties, for particular dates, from where, and so on ?

MR. STEWARD — We would leave all those matters of detail to be settled by your committee. We expected, however, that we should name the people to be affected by these general rates. We did not intend to have them thrown open to the public.

LETTER FROM RUSSELL P. HOYT, GENERAL MANAGER, TRADERS AND TRAVELERS' UNION.

NEW YORK, June 25, 1884.

ALBERT FINK, Esq., Commissioner :

SIR — This organization, composed, as may be seen by partial list of names annexed, of a large body of the leading merchants of the city of New York, would respectfully submit that in the matter of freight and passenger travel your inter-

ests and that of those merchants are inter-dependent ; that is, that a loss to their business is a loss to yours ; and a benefit to their business, a benefit to your own. While this proposition seems very plain, the action of railroads leading out of the city would argue that they do not recognize its soundness. Had they done so, discrimination against the trade of this city would not have been the policy of management. Surely, much the same relation existing between western roads and the cities of the west exists between the eastern roads and the merchants of New York. Why, then, should the policies of eastern and western roads differ so widely? Can it be that the city of New York is less entitled to consideration than the cities of Chicago or St. Louis?

Permit us to lay before you copies of and extracts from western documents, the originals of which are on file in this office. The manager of the Chicago Freight Bureau, an organization composed of the wholesale merchants of that city, at the beginning of the Bureau's operations, said to a Chicago reporter as follows :

" Its (the Bureau's) affairs will be conducted so that the roads will understand that it works first for the merchants, and secondly for the roads. I believe the interests of both are identical * * * They must work together ; the merchants giving the roads information which will enable them to open new territory, and the roads aiding the merchants to put their goods into territory now covered by other cities. * * * The main business will be the opening of new territory so as to extend the wholesale trade of Chicago ; and that object will be laid before the roads in such a way that they will be willing to assist in the work."

That the roads of the west found it to their interest to co-operate with the merchants of Chicago, as predicted in the preceding extract, is evident from the following clipping from the " Chicago Tribune," of date March 15, 1884 :

" Reference was made in the Tribune a few days ago to an arrangement between the Wabash and the St. Louis merchants, by which the road agrees to run excursions from Nebraska and north-western points to St. Louis for the accommodation of merchants who wish to purchase their goods in St. Louis. This arrangement was in clear violation of the agreement that the roads should grant no reduced rates on account of business, and the Tribune predicted at the time it was made, that the Chicago roads would make similar arrangements to give western and north-western merchants a chance to buy their goods in Chicago. This prediction has been fulfilled. The Chicago merchants, members of the Chicago Freight Bureau, issued circular letters yesterday to the dealers in the west and north-west, informing them that, commencing Sunday, March sixteen, and continuing during the week, the Sioux City and Pacific and the Chicago, St. Paul, Minneapolis and Omaha railways, in Nebraska, will ticket them through to Chicago and return *via* the Chicago and North-western railway, at one fare for the round trip ; and also, that March nineteen, the Burlington and Missouri River railroad will ticket them through and return *via* the Chicago, Burlington and Quincy railroad at the same rate." A third letter from said Bureau to said western dealers, reads as follows :

" Commencing Sunday, March 16, 1884, and continuing until March twenty-ninth, inclusive, the Union Pacific railroad, in Nebraska, will ticket you through to Chicago and return *via* the roads composing the Western Trunk Line Associations, at one fare for the round trip. Western merchants are requested to avail themselves of this opportunity to visit Chicago, as the stocks in Chicago houses were never larger or assortments better than at present, and the prices such as will certainly warrant them in visiting this market at this time."

(Here follows a number of letters in which the roads leading out of Chicago agree to give to the merchants of Chicago any number of passes which may be

distributed through the western States for the purpose of bringing merchants to Chicago to trade.)

"Your attention is respectfully called to the existence of a combination of over 200 houses in the city of Chicago, under the style of 'The Chicago Freight Bureau,' whose purpose is to secure for that city and retain the business of the interior and surrounding country.

"By the co-operation of railroads, through the medium of special rates and free passes, much has been accomplished. By these and similar inducements thousands of merchants who formerly bought their stocks in the city of New York, have been led to make Chicago, St. Louis and other western jobbing centers their market. Not only have the New York merchants and manufacturers suffered greatly, but the railroads centering in this city have suffered a proportionate loss of business. The Traders and Travelers' Union was organized, in a measure, to endeavor to recover the business which has thus been diverted. From the best information obtainable from our leading merchants, we feel justified in asserting that if the said roads converging at this center will reasonably co-operate with this organization, from 20,000 to 30,000 buyers can be attracted to New York during the coming season, who otherwise will confine their travel and purchases to the western markets. During the spring and fall season our merchants are in constant receipt of inquiry letters on this subject. We have hereinbefore furnished specimens for your consideration. Many others could be produced. We do not seek a disturbance of passenger rates for the general public, nor do we urge that passengers who naturally would come to this city, at the present tariff rates, should be offered reductions. But we do urge a liberal policy which will, through the aid of this organization, mutually benefit our merchants and the railroads, by bringing a volume of new business to this city which cannot be otherwise obtained.

"In view of the near approach of the business season, of the prevailing depression, and of the business apathy attendant upon a presidential election, it is of vital importance that this subject should receive prompt consideration. If desired, a committee from our board of directors and officers will be pleased to meet with you and exchange views more fully at the earliest possible date.

"Respectfully yours,

"(Signed),

RUSSELL P. HOYT,

"General Manager."

REPLY TO COMMUNICATION FROM TRADERS AND TRAVELERS' UNION.

"NEW YORK, July 3, 1884.

"J. V. CHENEY, Esq., *Secretary Traders and Travelers' Union*; P. O. Box 848, N. Y. C.:

"DEAR SIR—I have received yours of July 2; also the communication (without date) addressed to me by Mr. Russell P. Hoyt, general manager.

"Since the receipt of these communications there has been no meeting of the representatives of the roads who have to act in this matter; but I will submit the matter at the first meeting that will be held.

"I may say, however, that if I understand the views of the representatives of these roads correctly, they are disinclined to conduct their business under a system of special rates and free passes. The roads desire to make the freight rates and passenger fares as low as they can consistently, but to make these rates and fares

"Respectfully yours,
"(Signed), ALBERT FINK,
'Commissioner.'

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Boston, Hoosac Tunnel and Western; Delaware and Hudson Canal Company; Delaware, Lackawanna and Western; Philadelphia and Reading; New York, Chicago and St. Louis; Wabash, St. Louis and Pacific; Peoria, Decatur and Evansville; Louisville, New Albany and Chicago; Wheeling and Lake Erie; Chicago and Alton; and the Chicago and North Western Railroad Companies. The principal office is located at Buffalo, N. Y. W. H. Smith is general manager. Is not a department of a railroad company; has no contracts with railroads; but each pays the losses and damages occurring upon it. The roads each contribute cars in a similar manner, shown in the case of the White Line Central Transit Company.

THE RED LINE TRANSIT COMPANY.—This is not an incorporated company, but is an association of the following companies: Maine, Central; Boston and Maine; Eastern; Worcester and Nashua; Providence and Worcester; Housatonic; Boston and Albany; Connecticut River; Portland and Ogdensburgh; St. Johnsbury and Lake Champlain; Ogdensburgh and Lake Champlain; Rome, Watertown and Ogdensburgh; Canadian Pacific (Eastern Division); Utica and Black River; Philadelphia and Reading; Lehigh Valley; Geneva, Ithaca and Sayre; New York Central and Hudson River; Lake Shore and Michigan Southern; Indianapolis, Bloomington and Western (Ohio Division); Fort Wayne and Jackson; Wabash, St. Louis and Pacific; Cincinnati, Indianapolis, St. Louis and Chicago; Chicago, Rock Island and Pacific; Chicago and North Western; Chicago, Milwaukee and St. Paul, and the Chicago, St. Paul, Minneapolis and Omaha Railroad Companies.

The conditions under which it is operated and conducted are precisely the same under which the White Line Central Transit Company is conducted.

The general manager is S. D. Caldwell, and the principal office, Buffalo, N. Y. The line has no contracts with railroads, but each road pays for losses and damages occurring upon it.

THE MILWAUKEE LINE.—General manager, T. Tandy; principal office, Detroit, Michigan. It is an association of roads, neither an incorporated company nor a joint-stock company; has no general agent in New York. It is conducted and operated under the same conditions as the White Line Central Transit Company, each road paying for losses and damages occurring upon it.

THE BLUE LINE is an association of roads formed for mutual convenience and to give cheaper and quicker service to the shipper. They contribute to the line (when the number of cars requisite to do the business has been ascertained) the proportion of cars which equalize the mileage balances. The line has a general manager, B. B. Mitchell, Rochester, N. Y., at which point the principal office is located. It is not organized or conducted as a department of a railroad company and has no contracts with railroad companies, but each road pays for losses and damages occurring upon it.

THE TRADERS' DESPATCH is a co operative despatch line. A copartnership between the New York, Lake Erie and Western Railroad Company; Lehigh Valley; Delaware and Hudson Canal Company; Boston, Hoosac Tunnel and Western; Fitchburg; New York Central and Hudson River; Cincinnati, Hamilton and Dayton; Ohio and Mississippi, and the Indiana, Bloomington and Western Railroad Companies. Is not incorporated. General office at Buffalo, N. Y.; T. N. Jarvis, general manager. All railroads in the association are responsible for their bills of lading. If damage *in transitu* is located on any distinct road, that road pays; if unlocated, it is treated as a "hidden loss" and *pro rated* from original point to destination. All payments are made by the general office of the Traders' Despatch, which collects from the railroad or railroads.

THE ERIE AND PACIFIC DESPATCH is a copartnership between the New York, Lake Erie and Western; New York and New England; Philadelphia and Reading; Lehigh Valley; New York, Pennsylvania and Ohio; Delaware and Hudson Canal Company; Pittsburg, Cincinnati and St. Louis; Chicago, St. Louis and Pittsburg; Terre Haute and Indiana; Vandalia; Indiana, Bloomington and Western; Evansville and Terre Haute; Chicago, Milwaukee and St. Paul; Chicago, Rock Island and Pacific; the Jeffersonville, Madison and Indianapolis Railroad Companies. General office No. 6 Bowling Green, New York city; general manager, H. R. Duval. Has no president; the board of directors, which is

composed of one officer from each road, choose a chairman at each meeting. The conditions as to loss and damage are the same as with the Traders' Despatch.

THE GREAT WESTERN DESPATCH is a copartnership between the New York, Lake Erie and Western; Fitchburg; Boston, Hoosac Tunnel and Western; Philadelphia and Reading; Lehigh Valley; New York, Pennsylvania and Ohio; Delaware and Hudson Canal Company; Wheeling and Lake Erie; Chicago, and Atlantic; Chicago, Milwaukee and St. Paul; Cincinnati, Hamilton and Dayton; Cincinnati, Hamilton and Indianapolis; Terre Haute and Indianapolis; and the Evansville and Terre Haute Railroad Companies. Is not incorporated. General office is No. 6 Bowling Green, New York city. General manager, H. R. Duval. Has no president. The board of directors, composed of an officer of each road composing the line, choose a chairman at each meeting. The conditions as to loss and damage are the same as with the Traders' Despatch.

SOUTH SHORE LINE. — A copartnership between the New York, Lake Erie and Western; Fitchburg; Boston, Hoosac Tunnel and Western; Delaware and Hudson Canal Company; Philadelphia and Reading; Lehigh Valley; New York, Pennsylvania and Ohio; Cincinnati, Hamilton and Dayton; Pittsburg, Fort Wayne and Chicago; Chicago, Milwaukee and St. Paul; Indiana, Bloomington and Western; Terre Haute and Indianapolis; Vandalia; the Ohio and Mississippi Railroad Companies. It is not incorporated. The general office is at No. 6 Bowling Green, New York city, and the general manager is H. R. Duval. It has no president. The board of directors, composed of one officer from each railroad, elect a chairman each meeting. Conditions as to loss and damage the same as with the Traders' Despatch.

UNION DESPATCH FAST FREIGHT. — This is a line organized and owned by "the Union Steamboat Company," for the transportation of west-bound business over the New York, Lake Erie and Western Railroad Company, and the steamers of the Union Steamboat Company, to Western lake ports. The Union Despatch is a name simply used by the Steamboat Company for this business. The Union Steamboat Company assumes the entire responsibility under the bill of lading.

PEIPHER'S DAILY LINE OF TRANSPORTATION is an individual enterprise; James B. Montgomery, proprietor; principal office at Harrisburg, Pennsylvania; general agent in New York, Delaware, Lackawanna and Western Railroad Company. This is a fast freight line over the D., L. and W., the Lehigh Valley and the Philadelphia and Reading Railroad Companies, between New York and Harrisburg, Pa.; the losses and damages being borne jointly by the railroads and the line.

THE EMPIRE LINE is a fast freight line owned by the Pennsylvania Railroad Company. Its principal office is at No. 243 South Fourth street, Philadelphia, and George M. Ball is the manager; William A. Jones, 381 Broadway, is the New York agent. The company which loses or damages the goods is responsible for such loss or damage of goods while *in transitu*.

THE ANCHOR LINE is owned and operated by the Erie and Western Transportation Company, a corporation chartered under the acts of the Legislature of Pennsylvania; principal office, 234 South Fourth street, Philadelphia; Frank J. Forth is president; H. G. Nichols, agent in New York city, at 76 Wall street. It is not organized or conducted as a department of a railroad company. The Erie and Western Transportation Company is liable for and assumes the responsibility of losses and damages on goods *in transitu*.

THE WESTERN EXPRESS COMPANY. — This title is used as a trade-mark, and is used to designate one branch of the business of the Western Transit Company; a steamboat company organized under the laws of this State, and plying the lakes. Goods are shipped from New York *via* the New York Central and Hudson River Railroad Company. The principal office is at Buffalo. The general manager is John Allen, Jr. Gibson L. Douglass, No. 91 Wall street, is the New York city agent.

THE CONTINENTAL LINE. — It is a partnership of the Baltimore and Ohio Railroad Company and its western connections, and was organized nine years ago, and is not incorporated. C. S. Sawyer is the general manager. Principal office at Cincinnati, Ohio. General office in New York city, A. C. Rose, 315 Broadway.

It is in fact a department of the Baltimore, Ohio and Mississippi railroads and connections. Either of the above roads or primarily the road receipting for the property, if legal liability is established, is responsible for loss or damage on goods *in transitu*.

THE BEE LINE is not a Fast Freight Line, but a short name used for advertising purposes in place of Cleveland, Columbus, Cincinnati and Indianapolis, and the Indianapolis and St. Louis Railway Companies.

THE PIEDMONT AIR LINE has no railroad connections in New York. Shipments from New York are made by the Old Dominion Steamship Line.

THE CAROLINA CENTRAL DESPATCH LINE.—Discontinued.

THE STAR UNION LINE has no connections in the State of New York.

THE IRON LINE is an individual enterprise, the principal office of which is in New York, and the general agent of which is F. W. Stark. It ships iron over canal only.

THE DELAWARE AND MARYLAND FAST FREIGHT LINE is no longer in existence.

ATLANTIC COAST LINE has no railroad connections in the State of New York. Its shipments from New York are made by the Old Dominion Steamship Line.

TEXAS AND PACIFIC FAST FREIGHT LINE has no railroad connections in the State of New York. All shipments from New York city are made by Mallory's Steamship Company.

DIAMOND JOE LINE is a line of steamers on Western lakes.

NATIONAL DESPATCH has no railroad connections in the State of New York.

CALIFORNIA FAST FREIGHT LINE.—Discontinued.

THE GREENE LINE is the oil line of the Pennsylvania Railroad Company.

THE WILSON TRANSIT LINE is a line of lake steamers.

XIII.

RESIDENTS OF TWENTY-FOURTH WARD, NEW YORK CITY, *v.* NEW YORK AND HARLEM, AND NEW YORK, NEW HAVEN AND HARTFORD RAILROAD COMPANIES.

March 11, 1885.

This was a petition of the residents of the Twenty-fourth Ward of the city of New York, praying for relief from the blowing of whistles of the engines running on the tracks of the Harlem railroad. The allegation was that 120 trains passed during the day and night and that no injury could result since the tracks were properly guarded by fences and flagmen stationed at every crossing. The petition was numerously signed.

Upon transmitting the complaint, the New York, New Haven and Hartford R. R. Co. expressed its willingness to discontinue the blowing of the whistle within the city limits if the Board saw fit to forbid it; the New York Central, which also uses these tracks, said that its standing rules forbade the whistling within the city except in cases of danger.

The Board therefore recommended "that the whistle be not sounded on locomotive engines" on the tracks of the New York and Harlem

R. R. Co., when within the city limits of New York, except in cases of danger.

The New York Central promptly complied with the recommendation. The New York, New Haven and Hartford railroad did not until its attention was called to the fact that the Central and Harlem had issued orders in compliance with the recommendations of the Board, when it also complied.

XIV.

D. D. S. BROWN ET AL. v. THE NEW YORK CENTRAL SLEEPING
CAR COMPANY.

March 12, 1885.

The complainants were passengers on the sleeping car "Arctic" of the New York Central Sleeping Car Company, running on the Lake Shore and Michigan Southern, and alleged that the car was unfit for use; that it was impossible to properly heat the car; that the windows were so loose that the snow drifted in on the berths; that the doors could not be kept closed; and that finally the car was appropriately named the "Arctic."

The answer of the company was that the Arctic was lying in Buffalo, having been ordered into the repair shop for a thorough overhauling. The snow blockades west and east of Buffalo had delayed trains and left the company without cars necessary for the travel, and in this extremity the company had put the Arctic in use again, rather than put none on at all to accommodate the travel. It acknowledged the condition of the car, and while stating that before long there would be none in a similar condition, said the use of the Arctic was due to a desire to make their passengers as comfortable as it could, under the circumstances of most unusually severe weather, which had placed its ordinary complement of good cars out of its reach.

This explanation was satisfactory to the complainants, as letters now on file in this office show.

XV.

IN THE MATTER OF THE COMPLAINT OF THE FARMERS' FERTILIZER
COMPANY v. THE SYRACUSE, ONTARIO AND NEW YORK RAILWAY
COMPANY.

March 17, 1885.

The complainants allege that they own a plot of ground in the town of DeWitt, three miles east of Syracuse, Onondaga county, N. Y., on the Erie canal, whereon is erected a large factory for the production of chemical fertilizers, said land extending from the canal bank to the tracks of the Syracuse, Ontario and New York railway; that

on the north of the tracks of the said Syracuse, Ontario and New York railway, they have leased from the New York Central and Hudson River Railroad Company land whereon they have erected a large storehouse from which they load cars for the New York Central and Hudson River railroad, on its siding; also cars for the New York, West Shore and Buffalo railway, and the Syracuse, Ontario and New York railway, on the siding of the latter; that in order to reach their storehouse from the factory, they are compelled to cross the tracks of the Syracuse, Ontario and New York railway, and do so on a suitable plankroad which the complainants built at their own expense, with the knowledge and verbal consent of the railroad authorities, at a suitable and convenient place; that recently the general management of the road has changed, and the superintendent now threatens to prevent the complainants crossing hereafter at this point, much to their detriment and inconvenience. They pray the Board for a determination of their rights in the premises upon the state of facts presented.

The railroad company, in its answer by its president, Mr. Ashbel Green, says that he has had no opportunity to make the requisite inquiries in order to ascertain the truth of the matters alleged. He suggests, however, that assuming their correctness for the sake of argument, the case is simply one of a controversy in reference to real property properly determinable in the courts, and not within the jurisdiction of the Board of Railroad Commissioners. He further states that in his opinion in the aspect most favorable to the complainants, the claim is under a parol license, revocable at will, and under which no permanent easement can be claimed.

OPINION.

Inasmuch as the letter of complaint was transmitted to the road on the 19th of February, and an answer not returned until the 27th, the Board sees no good reason why the president of the road should not have informed himself of the facts. The Board is further of the opinion that it has jurisdiction of the case under the general powers conferred by sections 5 and 6 of chapter 353 of the Laws of 1882. With regard to the statutory legal right of the complainants to force a crossing of the tracks of the Syracuse, Ontario and New York railway, there are certainly grave doubts.

Section 44 of the General Railroad Act provides that "every corporation shall maintain * * * farm crossings of the road for the use of the proprietors of lands adjoining such railroad." The adjudication of the courts makes the law well settled that convenient and suitable farm crossings shall be maintained. But the law and the courts seem to be silent with regard to the particular case at issue, viz.: Whether a manufacturing enterprise can compel a private crossing to land purchased subsequent to the building of the railroad. Assuming that such is the fact, it would seem that the case falls within the general and equitable powers which it was the intention of the Legislature that this Board should exercise, as shown by the passage of chapter 353, Laws of 1882, above quoted, section 6 of which is as follows :

“§ 6. Whenever, in the judgment of the said Board of Railroad Commissioners, after a careful personal examination of the same, it shall appear that repairs are necessary upon any railroad within this State, or that any addition to the rolling stock, or any addition to or change of the stations or station-houses, or that additional terminal facilities shall be afforded, or that any change in the rates or fare for transporting freight or passengers, or that any change in the mode of operating the road and conducting its business is reasonable and expedient in order to promote the security, convenience and accommodation of the public, the said Board shall give notice and information, in writing, to the corporation of the improvements and changes which they deem to be proper, and shall give such corporation an opportunity for a full hearing thereon; and if the corporation refuses or neglects to make such repairs, improvements and changes, within a reasonable time after such information and hearing, and shall not satisfy said Board that no action is required to be taken by it, the said Board shall present the facts in the case to the Attorney-General for his consideration and action; and shall also report the same facts in a special report or in the annual report of said Board to the Legislature.”

It appears from the facts submitted and from examination of the premises by an official of the Board, that the petitioners built the crossing with the consent of the railroad; that in no other way can they reach their destination, except by a circuitous route of a mile and a half by the tow-path of the canal; that the crossing at the place in dispute in no way interferes with the safe and convenient operation of the railroad.

While it is quite true that a railroad ought not to be subjected to being crossed at any or at all points at the desire of private individuals or corporations, it seems that this is a case where the Board can properly exercise its discretion in the matter of a recommendation, upon the ground that such crossing “is reasonable and expedient in order to promote the security, convenience and accommodation of the public.”

To facilitate the loading and distribution of the product of such a factory as that of the petitioners, when it can in no way interfere with the safe and convenient operation of the railroad, seems clearly to come within the provisions of the section of the act quoted.

RECOMMENDATION.

For the above reasons, the Board recommends that the Syracuse, Ontario and New York Railway Company do not prohibit the Farmers' Fertilizer Company from crossing its tracks at the point where such crossing has been heretofore allowed.

By the Board,

WILLIAM C. HUDSON,

Secretary.

The company has complied.

XVI.

IN THE MATTER OF THE COMPLAINT OF K. E. BUNNELL, OF GUILFORD, CHENANGO COUNTY, *v.* THE NEW YORK, ONTARIO AND WESTERN RAILWAY COMPANY, ON ACCOUNT OF FREIGHT RATES

March 17, 1885.

By Com. ROGERS. — The complainant, a dealer in general merchandise, alleges that the New York, Ontario and Western Railway Company charges him and other merchants of the same town, Guilford, the following rates from New York city, viz.: First class, 55 cents; second class, 43 cents; third class, 30 cents; fourth class, 25 cents per 100 pounds; that the railroad hauls the same classes of freight to Oxford, seven miles further west, for Miller, Perkins & Co., and charges, respectively, 32 cents, 28 cents, 20 cents and 15 cents per 100 pounds; that it hauls the same class of goods to Norwich, fifteen miles further west, and charges the same rate as to Oxford.

2d. The complainant further alleges that the company hauls full loaded cars from the west, from Oneida (the junction with the New York, West Shore and Buffalo) to Sidney, two miles east of Guilford, and charges five cents per 100 pounds, or \$1.00 per ton less than it charges to leave the same goods at Guilford, although passing directly by. Also, that the company charges 10 cents per 100 pounds in full car lots, for grain, flour and feed, from Sidney to Guilford, an excessive price, in order to compel the merchants at Guilford to draw their supplies by way of Oneida, instead of from Binghamton.

The complainant argues that in consequence of this unjust discrimination against Guilford and in favor of Oxford and Norwich, merchants at the first place are at a disadvantage with merchants at the latter two places, and prays for relief.

A large amount of correspondence has taken place between the complainant, the Board and the railroad.

Finally a public hearing was given at Albany on the fourteenth of October, at which the road was represented by its counsel, J. B. Kerr, Esq., and general freight agent, Mr. J. C. Anderson; the complainant, by C. R. Hall, Esq.

Mr. Anderson, for the railroad, admitted the facts as presented by the complainant, except as to the rates charged Miller, Perkins & Co., at Oxford. The latter firm, he stated, had a special contract, and the rates were not given. He stated, however, that the regular rates to Oxford and Norwich, seven and fifteen miles respectively more distant from New York than Guilford, were forty cents, thirty-two cents, twenty-five and twenty cents, as against fifty-five cents, forty-three cents, thirty cents and twenty-five cents to Guilford.

The granting of special contracts to parties at lower rates than the tariff upon the basis of their agreeing to ship exclusively by the railroad and by no other route or canal is condemned by this Board.

There was no testimony to show the consideration given by Miller, Perkins & Co. for their special contract, but assuming it was the same as is the custom upon the road, the Board condemns it. The

defense of the company to the first charge, viz., the apparent discrimination against Guilford, and in favor of Oxford and Norwich, was :

1st. As to Oxford, that the railroad was on a side hill one and a-half miles from the town and in direct competition with the Delaware, Lackawanna and Western; that it was obliged to make charges no higher than those of the Delaware, Lackawanna and Western, and also allow something for cartage, otherwise no one would drive up the hill to deliver or receive freight.

2d. That at Norwich it was also in close competition with the Delaware, Lackawanna and Western, and was obliged to meet the rates of the latter company or carry nothing.

OPINION.

The Board has expressed, as a general principle, that "railroads should not, as a general rule, charge more between a terminal and an intermediate point for a like class and quantity of freight than is charged between such terminal and a more distant point, even though at such more distant point there be railroad or water competition, unless railroads can affirmatively establish such circumstances governing such competition as justify the higher charge for the shorter distance."

At first sight, in the case under consideration, the conditions of competition hardly seem to justify a greater charge for the shorter haul. The distance from Jersey City, by the Delaware, Lackawanna and Western, to Norwich is 248 miles; by the New York, Ontario and Western it is 226.2 miles.

On the other hand, however, the New York, Ontario and Western is brought into competition with a much richer road — one that can afford to carry, and does carry, at much lower rates. A reduction at Guilford would involve a corresponding reduction at every station on the line between there and New York. The effect of positively enforcing such reduction might therefore be to compel the poor road to carry at any rate which the richer road might dictate, the latter having resources and revenues entirely beyond the reach of the former.

Section 33 of the General Railroad Act provides that the rates of freight or fares "shall not, without the consent of the corporation, be so reduced * * * as to produce less than ten per cent per annum on the capital actually expended."

By the last annual report it appears that the cost of road and equipment was \$52,856,017. The road earned sufficient to justify a dividend of six per cent on but \$2,000,000 of preferred stock; \$50,000,000 of property, therefore, earned nothing.

Under these circumstances I do not feel warranted in going farther than to recommend to the New York, Ontario and Western Railway Company a careful reconsideration of its freight tariff, with a view of eliminating, if possible, the apparent discrimination against Guilford and intermediate points as compared with competitive points, reminding them that the policy of building up towns at intermediate points on a railroad's line, where it gets the *whole* business, is often found more profitable than that of building up alone termini and competitive points, where the business is divided between the roads centering there,

to say nothing of the wisdom of such policy from a public point of view.

At Oxford, the disadvantage that the New York, Ontario and Western labors under, by reason of its being on a side hill, and its station being one and one-half miles distant from the town, *does*, in the opinion of the Board, justify a reasonable allowance for cartage; two and one-half cents per 100 pounds does not seem to be too much.

The rate to the station falls within the same principle and recommendation as to Norwich.

In its defense to the second charge, namely (that it hauls full loaded cars from the west past Guilford to Sidney and charges five cents less per 100 pounds to Sidney than to Guilford), the road alleges that it only does what nearly universal custom justifies, viz.: imposes an "arbitrary" on intermediate points over and above the through rates charged to points of intersection with trunk lines. It appears from the testimony that at Sidney the defendant's road intersects the line of the Albany and Susquehanna railroad; that the latter road, and its western connection (the Erie), gives Sidney the same rate of freight that the New York Central gives Oneida, the point of intersection of the New York Central with the defendant's line of the road; that, therefore, the defendant is obliged to haul to Sidney at the same rate charged by the Albany and Susquehanna, or not haul at all; that it can afford to do so and make *something*, because it shares with the New York Central the through rates to Oneida of grain going to points on the defendant's road. Its share, however, is but six and one-half cents per 100 pounds, when the through rate from Chicago to New York is twenty-five cents.

It is evident that this six and one-half cents is insufficient remuneration to a road doing a business comparatively small to that of the trunk lines. The imposition of an arbitrary, therefore, on points intermediate between intersections with the trunk lines seems justifiable, although it leads to the anomaly complained of.

The statement in detail of both sides of the question shows the intricacies involved. Its solution, on *absolutely equitable* principles, is impossible, except to a body or board empowered to fix rates all over the country, treating the entire railroad system of the country as a *whole*.

Neither this Board nor any other has such power. It can, therefore, only treat the matter on the basis of facts, and subject to railroad competition as it finds them.

Inasmuch as the company has made arrangements with the New York Central by which it receives a proportion of the through rate to Oneida, it becomes of advantage to the road to have grain from the west shipped by that route; and it seems to the Board but just that the railroad should offer some inducements to have shipments come that way.

The merchant at Guilford is benefited by the arrangement, inasmuch as the New York, Ontario and Western, by reason of sharing in the through rate with the New York Central, can afford to deliver grain at Guilford at but five cents arbitrary over the through rates. If, however, the merchant at Guilford, for reasons of his own, and, doubtless, good ones, prefers to buy at Binghamton, and thereby deprive the

railroad and himself of the benefit of the railroad's contract with the New York Central, he should be willing to pay the road a reasonable sum for transporting the grain.

The road now charges ten cents per 100 pounds. While this seems high, it is not excessive *when the circumstances under which it is imposed are taken into consideration.*

Of course it would be better if the New York, Ontario and Western could make the same arrangement with the Erie and Albany and Susquehanna that it does with the New York Central, so that it would make no difference to it whether the grain came by Oneida or Sidney; but presumably it cannot. The merchant at Guilford is better off than if the New York, Ontario and Western had not such an arrangement with one or the other of the through lines, for under such circumstances he would be obliged to pay local rates by whichever route the grain came.

I do not, therefore, at present, feel disposed to go further than to recommend the New York, Ontario and Western to use its best endeavors to make such arrangements with all the trunk lines intersecting it, that will make it possible for it to carry grain and produce from the west to intermediate points on its line at rates based upon the distance carried, without regard to the direction in which it comes.

WILLIAM E. ROGERS.

Attest: WILLIAM C. HUDSON,
Secretary.

Com. KERNAN.—Com. Rogers has accurately stated the facts bearing upon the questions to be considered.

The railroad is charging much higher rates from New York to Guilford than from New York to Oxford, seven miles further west, or than to Norwich, fifteen miles further in the same direction.

The low rates are made by the road at Oxford to meet the competition of the Delaware, Lackawanna and Western at that point for New York business, and a cartage allowance is also made to induce Oxford shippers to come to the New York, Ontario and Western depot, situated upon a side hill some distance from the town itself, instead of using the Delaware, Lackawanna and Western depot, more conveniently located for the use of Oxford shippers.

In the competition at Oxford the New York, Ontario and Western road has the advantage of having the shorter line to New York by some twenty-two miles.

The Delaware, Lackawanna and Western road, on the contrary, has the greater resources, more extensive connections, terminals and branches, and is thus enabled by its volume of business to earn and pay dividends, a thing almost unknown to the stockholders of the New York, Ontario and Western.

The rates of the latter road at Oxford are consequently fixed by competition with a road whose superior resources and business in other directions enable it at that point to force a low rate.

It is claimed that these circumstances justify the New York, Ontario and Western in charging the higher rates complained of for shorter distances to stations on its line between New York and Oxford. It

may be assumed properly that the reduction of intermediate rates to the Norwich rate would, upon the same amount of business, seriously affect the revenue of the road.

In its report to the Senate upon the "*pro rata*" freight bill, the Board, after mature consideration, favored the rule that "railroads should not, as a general rule, charge more between a terminal and an intermediate point for a like class and quantity of freight than is charged between such terminal and a more distant point, even though at such more distant point there be railroad and water competition, unless railroads can affirmatively establish such circumstances governing such competition as justify the higher charge for the shorter distance."

It cannot be said to be definitely settled whether any exception ought or ought not to be allowed, nor what rules shall govern the making of such exceptions.

In France there is no railroad competition, but where water competition intervenes the rule is imperative.

In Germany railroad competition cannot, while water competition may, create an exception.

In Massachusetts a statute has, since 1874, applied the rule under certain conditions without permitting either railroad or water competition to vary the rule. The experience in that State has been that, like nearly all rules relating to this exceedingly intricate railroad problem, this rule ought not to apply in some cases and under some circumstances.

In South Carolina the statute goes to the extreme of forbidding a greater charge for a shorter than for any longer distance over a road.

In Vermont the following is the law, as enacted in 1880 and 1882 :

"A railroad corporation whose railroad is located in the State shall not charge a larger sum for freight, merchandise, or passage of passengers thereon for a less distance, to or from a way station on said road, than is charged for a greater distance." * * * "Two or more corporations, whose roads connect, shall not charge or receive for the transportation of freight to any station on the road of either of them a greater sum than is at the time charged or received for the transportation of the like class and quantity of freight from the same original point of departure to a station at a greater distance on the road of either of them in the same direction."

In Pennsylvania the Constitution adopted in 1873 provides :

"Persons and property transported over any railroad shall be delivered at any station at charges not exceeding the charges for transportation of persons and property of the same class in the same direction to any more distant station, but excursion tickets may be issued at special rates."

The Pennsylvania railroad claims to have adopted in 1870, and to have since maintained, the rule of "not charging to any intermediate point a greater rate than is required to one at a longer distance."

In Illinois the rule is imperative, and the fact that the farther point is a competitive one is, of itself, no defense by statute for the higher charge.

In the report of the Illinois Commission, for 1884, we find two cases before the Board, reported as follows :

STEPHEN R. MOORE v. THE ILLINOIS CENTRAL RAILROAD COMPANY.

Charge — Unjust Discrimination.

The railroad complained of runs from Chicago south, through the State, passing Kankakee, fifty-six miles out, and Mattoon at more than three times that distance. The commissioners' rate, and it was the railroad tariff on fourth-class freight from Chicago to Kankakee, is sixteen cents per hundred. For nearly two months the railroad company in question maintained a rate from Chicago to Mattoon on fourth-class freight of ten cents per hundred.

Mr. Moore complained that this was an unjust discrimination against Kankakee, in favor of Mattoon. He produced expense bills and the company's books to show the facts to be as he contended, and the company did not deny them. The railroad company answered, that at Mattoon it met New York competition, reaching that point by way of Indianapolis, a nearer route than by way of Chicago, and consequently at a less rate.

That if it did not meet the competition by a rate equally as favorable to Chicago business, it would lose the shipments, Chicago merchants would lose the trade and Mattoon would lose the benefit of competition. That the ten cent rate was not a losing one, though it would not be sufficiently profitable to apply to the whole road. That should it fail to protect its shippers at Mattoon, it would lose not only the trade of the town, but that of all its other junctions and crossings where it had to meet inter-State competition, which is not amenable to our law. That Kankakee was not injured, and hence the discrimination not unjust.

It would seem that one great object of the railroad law is to secure and save to the people the benefits of competition. Yet a rigid enforcement of the law as it stands in this case would result in crippling a railroad perhaps more beneficial to the whole State than any other, and to eliminate competition fairly belonging to many points on its line. The only excuse of the company for this rate, special to Mattoon, was competition at that point. This, the statute expressly states, shall not be deemed a sufficient excuse.

Therefore, in view of the law, the Commission ordered suit to be brought, and advised the railroad company that the discrimination complained of must cease, and it has been discontinued ever since.

It is, perhaps, not proper for the Commission to reflect upon the law-making power, but eminent authority can be quoted to show that there are exceptions to all rules, and that eminently just and proper discrimination may be made, not injurious to any person or interest, based solely on competition, either by water or rail, at a given point. This exception would be especially noticeable when the competition came from without the State, and thus crowded out of business our own tax-paying citizens, both natural and artificial.

Application of J. F. Tucker, general traffic manager of the Illinois Central railroad, for special rate on coal:

Tracy & Starn, of Springfield, were desirous of supplying the Michigan Central Railroad Company with coal at Chicago. This involved a haul of 200 tons daily from Springfield and 300 from Tracy, upon which they could only pay a rate of one dollar per ton from the former and fifty five cents per ton from the latter place. On the basis of the Chicago selling price at that time, it would have amounted to an industry for the State of nearly half a million of dollars. The gross revenue to the Illinois Central Railroad Company derived from it would

have been annually about \$200,000 and the State would have received seven per cent of that amount, or \$14,000 a year. The competition in this case was with the Indiana mines. It was not commercial coal, and being limited to the use of the Michigan Central Railroad Company alone, would not have affected the rights or interests of persons in the general market at all, as the company for which it was intended would in no event be a purchaser there. It would have developed the mines in question, but not at the expense of any other town or mine or citizen in the State of Illinois. The Commission, however, had not the discretion under the law to make such a rate, and the business went elsewhere. Possibly this course is right and best, but many clear-headed people find it difficult to see the wisdom of it. It in reality seems to give the force of law to a discrimination against important interests of our own State, and forbids the exercise of the commonest motives of self-protection usually resorted to in such cases.

Since this Board adopted the rule as stated, it has, by further experience, become satisfied that it was just and proper for it to hold that, under some circumstances, a higher charge for the shorter distance should be allowed. Unless exceptions are permitted the inflexible rule will work unnecessary hardship upon railroads as well as upon communities.

The instances already noted in Illinois fully illustrate our meaning.

In the case of Harding and Hollis (Second Ann. Report, p. 160) the Board approved of a less charge on the R., W. and O. road, from Oswego to Pierrepont station, a distance of forty-one miles, than from Oswego to the intermediate station of Lacona, a distance of thirty-four miles. The reason for this lay in the fact that at Pierrepont station the road, in order to get the business of the shippers, had to meet the rate made by Lake Ontario carriers from Oswego. To have refused to make an exception in that case would have given the traffic between Oswego and Pierrepont station to foreign lake vessels, and this, as appeared in that case, would have been a positive injury to the railroad without benefit to the community. The principle there recognized has been followed by the Board in other cases. Whenever competitive points exist upon the borders of the State with foreign competitors by rail or water, it would seem good policy, and injurious to no one to permit sufficiently low paying rates at those points to enable our State roads to hold the traffic without insisting that intermediate point rates should be no higher. If the application of the rule in such a case would result either in forcing our roads to give up such competitive business, or in lowering intermediate rates so that the roads could not earn fair returns, then exceptions in such cases to the rule ought to be permitted.

The justice and good policy of not applying the rule would seem to be obvious in the case of through rates. For instance, the share in the through rate from Chicago to Albany, received by the New York Central, for hauling from Buffalo to Albany, ought not to be the gauge for rates from Buffalo to intermediate points. In fixing the rates from Buffalo to intermediate points, the local rate from Buffalo to the more distant point is the one to be considered. While local rates should bear some just relation to through rates, yet in the application of the rule under discussion they must be kept separate, because since they relate to inter-State commerce, they are not under State jurisdiction.

and cannot be brought under the regulations which the State may impose upon local traffic upon its lines.

When we come to the question of rates upon shipments wholly within the State, the rule ought to be maintained with but very few exceptions. We have already stated the only exceptions which the Board has thus far found it proper to permit.

Such a rule would be of little practical benefit if competing points were generally made exceptions. It is only because of competing points that the trouble arises.

Such circumstances as that one road is longer to the competing point than its competitor; or that one is rich and another poor; or that one has a less expensive line to operate than the other, ought not, alone considered, to create exceptions to this rule. Precisely the same arguments apply against the statutory maximum rate of three cents a mile, and yet that provision has for many years been maintained in this State with benefit to the people, and without impairing railroad growth. It is safe to say that three-quarters of the dissatisfaction in this State with railroad rates would entirely disappear were the rule adopted by the Board enacted into law with a proviso permitting exceptions to be made by this Board, or by some other tribunals, under a few well defined conditions. In the absence of regulation on the subject the tendency of railroads is to reduce rates at competitive points to such low figures that every shipper at intermediate stations is continually aggravated by having to pay higher rates than though the railroad handled his goods much longer, and carried them much farther.

Were the rule enforced it would tend to compel railroads, through self-interest, to maintain better rates at competitive points and, consequently, lower rates at intermediate stations. The circumstances urged in this case are not sufficient to justify the making of an exception in the case of the New York, Ontario and Western. The road ought not to charge higher rates from New York to intermediate stations than to Oxford or Norwich.

At Oxford the railroad station is a mile and one-half from the town and upon a side hill. The Delaware, Lackawanna and Western road runs through the business portion of the town, and the road alleges that, in its competition with that road, it is obliged to allow to Oxford shippers a cartage charge. So far as Oxford shippers are concerned, such an allowance made to all alike would be unobjectionable. To deprive Guilford of her natural advantage of location near the railroad station, by allowing such an item to shippers at a more distant station, is, I think, an "undue preference," under the English cases, provided such allowance is carried to the extent of making Oxford rates lower than Guilford rates. (*Evershed v. North Western, etc.*, 36 Law Times, 14, 39, 306; *Thomson v. North Western, etc.*, 33 Law Times [N. S.], 32; *Harris v. Cockermouth*, 4 Jurist [N. S.], 239.)

The Board is, however, prevented from making a positive recommendation, for the reason that under the decision of the Board in *Stevens v. The New York, Lake Erie and Western Railroad* (Second Annual Report, p. 180), the rates from New York to Guilford, Oxford and Norwich are inter-State rates, and the matter is inter-State commerce.

Between New York and Cornwall the road runs for some distance through New Jersey, and hence a shipment from New York to Guilford passes over parts of two States. Congress alone can deal with such rates and shipments and ought, in the interest of the people, to do so. State Commissioners have no power in the matter, and hence can afford no relief.

While the road is, in my opinion, unjustly discriminating against Guilford in this matter, yet it is not within the jurisdiction of the Board to remedy the abuse by a positive recommendation.

SECOND COMPLAINT.

This charge is that the road hauls cars coming to it at Oneida from the west, past Guilford to Sidney, at five cents less per 100 pounds than it charges Guilford. Sidney is a competing point with the Erie and the Delaware and Hudson, lessee of the Albany and Susquehanna. The road alleges that it only follows the railroad custom, to-wit, "of imposing an 'arbitrary' of five cents per 100 pounds on intermediate points, over and above the through rates charged to points of intersection with trunk lines."

For reasons hereinbefore stated, I do not think this custom to be defensible or right, but I do not see how this Board has any power over the matter, for the reason that shipments from the west to either Sidney or Guilford are inter-State commercial transactions, and the wrongs therein existing, which do not yield to public sentiment and commercial laws, can only be corrected by congressional action.

THIRD COMPLAINT.

This complaint, as admitted, is that the road charges ten cents per 100 on full car-loads of grain and flour from Sidney to Guilford, a distance of nine miles, in order to compel Guilford merchants to bring their grain, etc., from the west *via* Oneida, thus enabling the road to get the long haul and to earn its percentage of the through rates *via* Oneida with the "arbitrary" of five cents per 100 added.

Grain reached Sidney from the west by two routes, to-wit, the Erie, and the Delaware and Hudson from Binghamton to Sidney; the New York Central to Oneida, and thence by New York, Ontario and Western to Sidney.

In order to compel Guilford merchants to receive their supplies over its line *via* Oneida, the road imposes a rate — excessive as compared with its other rates — upon whoever attempts to bring supplies from the west *via* the Erie and Delaware and Hudson. In other words, the Guilford merchant is between two fires. If he ships from the west *via* Oneida, an "arbitrary" of five cents per 100 is added to the through rates to Sidney, some miles farther; if he ships *via* Binghamton, an excessive rate is charged from the junction point at Sidney in order to drive him back to the Oneida route and the "arbitrary."

Now this does not seem right, and is not right. The defense of the road is not sound as to the ten cent rate from Sidney to Guilford. The statement of the proposition carries its own refutation: Can a road impose an excessive rate upon a part of its road in order to drive business into its main line and to give it a longer haul thereon? The law

does not permit charges to be other than reasonable for the service performed, and such an object as is here sought would not make an excessive rate a proper and reasonable one under the circumstances.

The road insists that it is only following railroad custom. It is just because of such arbitrary unreasonable customs, growing out of unregulated competitive strife, that public sentiment is growing in favor of extreme legislation by Congress and by States. Unless this road makes some effort to correct the matters here complained of, it will contribute its full share toward increasing discontent and perhaps unjust legislation. The road ought at least to give Guilford, Sidney rates from the west *via* Oneida. Unless the road does this, the recommendation of the Board ought to be that the rates complained of from Sidney to Guilford be reduced fifty per cent.

CONCLUSIONS.

FIRST. I concur with Commissioner Rogers in urging the road to endeavor to remedy the matters complained of.

SECOND. Unless the road does give to Guilford the Sidney rates from the west *via* Oneida, then I recommend that the rates from Sidney to Guilford be reduced fifty per cent.

JOHN D. KERNAN.

Attest: WILLIAM C. HUDSON,
Secretary.

Com. O'DONNELL—The complainant is a merchant and shipper doing business in Guilford, Chenango county, a point on the New York, Ontario and Western railway, distant 226 miles from New York city on the east, and fifty-seven miles from Oneida westerly, where it meets with the New York Central and New York, West Shore and Buffalo railroads. Oswego, its western terminus, is 115 miles from Guilford.

Sidney is a point on the same road nine miles east from Guilford, and is also on the Albany and Susquehanna railroad running from Albany on the east and intersecting the Erie railroad at Binghamton; on the Erie road, 225 miles from New York, its eastern termini, and 229 miles from Buffalo, its western termini, and is nine miles from Sidney south-west. Sidney, therefore, is a competing point between the two roads, both for eastern and western traffic.

Oxford is a point seven miles west of Guilford, sixteen miles from Sidney, on the New York, Ontario and Western railway, the Albany and Susquehanna, leased to the Delaware and Hudson Canal Company and the Delaware and Lackawanna railroad, running from New York to Binghamton. A branch of the latter road strikes the New York, Ontario and Western railroad at Oxford, and runs along or near the former road to Norwich, which is a point on both roads, thirty-one miles west from Sidney.

The complaint is against the New York, Ontario and Western Railway Company, and is as follows: "The rates charged for freight to Guilford are more than for hauling the same class of freight to Ox-

ford, seven miles further, and Norwich, fifteen miles further." Also "that the road charges two dollars per ton in full car lots from Sidney to Guilford to prevent shipments from the west *via* Sidney (over the Erie road and Susquehanna), the distance being between nine and ten miles. The charge is excessive, working great injustice, as it enables the surrounding towns to undersell us on heavy goods." "They also charge us one dollar per ton on full car lots of flour, etc., from the west *via* the West Shore line, over what they charge for drawing freight through to Sidney, nine or ten miles longer haul." A subsequent complaint states: "The complaint is that the road charges from New York city to this station the following rates, viz.: First class, fifty-five cents; second class, forty-three cents; third class, thirty cents; fourth class, twenty-five cents per hundred weight; that the same class of freight is hauled to Oxford, seven miles further west in the same direction, to Miller, Perkins & Co. and others, first class, thirty-two cents per hundred weight; second class, twenty-eight; third class, twenty; fourth class, fifteen; that the road hauls the same class of goods to Norwich, fifteen miles further in the same direction west, at the same rates as at Oxford; that the road hauls full loaded cars from Oneida from the west, over their road to Sidney, nine miles west of Guilford, and charges five cents per hundred or one dollar per ton less than they will leave the same goods at Guilford. What is asked is that the railroads shall charge us at this station the same rates of freight, which they charge Oxford and Norwich and Sidney, which places we compete with. They also charge us ten cents per hundred in full cars for grain, flour and feed from Sidney, nine or ten miles haul, which is a very high rate, preventing our getting that class of goods from the west *via* the Erie and Albany and Susquehanna roads."

The answer of the road is as follows:

"The rate of two dollars per ton, Sidney to Guilford (nine miles), is made in order that the traffic may go by the way of Oneida, giving us a haul of fifty-seven miles. The rate to the shipper from western points to Guilford is not increased.

"The question involved is one which pertains to all railways in this country, and exemplifies a custom, to change which would involve many complications, and it does not seem that any injustice is now done.

"Respectfully,
 "(Signed) E. F. WINSLOW,
 "President."

"Referring to the inclosed complaint from K. E. Bunnell, in regard to our freight charges, would say: That the first statement 'that we charge more for hauling the same class of freight in the same quantities to Guilford than to Oxford or Norwich.' This must refer to our rates from Binghamton to these points (*via* the Delaware and Hudson) and Sidney, on flour, feed and grain. This rate is made with the Delaware and Hudson to meet the Delaware, Lackawanna and Western rate, and give shippers the same facilities over our line, *via* Sidney, as they can get *via* the Delaware, Lackawanna and Western direct.

"The statement that we charge two dollars per ton from Sidney to Guilford on grain coming from the west is correct. Fast freight lines, operating over the Delaware and Hudson, supplied all the western grain used on the Delhi and New Berlin branches, and our main line points north and south from Sidney for a distance of twenty-five miles; we obtained but a small local rate, and were, in fact, supporting this territory for the benefit of the Erie and the Delaware and Hudson.

When we obtained from the New York Central facilities for getting grain direct from the west, we raised the rates from Sidney in order to force the shipments *via* Oneida, and give us a longer haul, but the through rate to shippers was altered very little, if any. We made Guilford five cents over Albany rate, which, on the present tariff, makes the through rate from Chicago to Guilford thirty-three cents per 100 pounds. We make the same rate to Mount Upton.

"The Delaware, Lackawanna and Western charge to Brisbane, their station across the country from Guilford, four cents over New York rate, which makes the rate to this station one cent higher than to Guilford. I would, therefore, deny his statement that we discriminate in favor of adjacent towns. The Erie charges Albany rates to Binghamton, and, if we allow Mr. Bunnell to use the rate of seven and one-half cents from Binghamton to Norwich, it would cost him through from Chicago thirty-five and one-half cents, or two and one-half cents higher than our rate *via* Oneida. If Mr. Bunnell would ship *via* Oneida, the unjust discrimination which he complains of would be done away with.

"In regard to the last statement, 'that we make a lower rate from the west to Sidney than we do to Guilford,' I would say that the Erie and Delaware and Hudson make Albany rates to Sidney, and therefore it necessitated our doing the same, but the same argument does not apply to Guilford. When he complains of our adding 'arbitraries' over New York and Albany rates to local points, he attacks the custom of every railroad in the United States.

"Respectfully,

"(Signed)

J. C. ANDERSON.

"General Freight Agent."

At the hearing before the Board in Albany, there was a substantial agreement as to the rates as stated in the complaint, the road, however, stating: "Our position is that it is necessary for us to protect ourselves by meeting these competing rates at competitive points, it being done by all railroads in the country."

Upon the face of the case there appears to be no doubt that the complaint is sustained. The discrimination against the complainant and citizens of Guilford in favor of Oxford and Norwich is a just cause of complaint against the railroad, and of such a nature as to demand relief.

The opinion of Commissioner Rogers assumes that a reduction at Guilford would involve an extensive reduction between every station to New York. It appears to me that this does not follow, as a matter of fact, but, in case of a flagrant, unjust discrimination against any citizen of the State by a railroad corporation, the correction of which involves all of the consequences apprehended, there would be no excuse for the continuation and perpetuation of the wrong. The right of a citizen to demand from a railroad, as a common carrier, reasonable and just charges for the transporting of his freight hinges upon no such contingency.

Nor is this a question of the earnings of a road under the ten per cent clause of the thirty-third section of the General Railroad Act. It is no excuse for a railroad, in a clear case of discrimination against a citizen of the State, to plead that the stock of the road is not a good pecuniary investment. This may be a good reason why the Legislature should not order a general reduction of the rate of fare or freight, but a citizen has a right to demand equal and exact justice in the price charged for the service rendered, and also protection against unjust discrimination for or against competitors in business, even if the road does not pay a profit to its owners. It is but just, however, to say that the road has not, in its answer, taken such a position under the thirty-third section of the General Railroad Act.

The fact of competition with a rival road in this State furnishes no justification for a higher charge for a short distance than for a long distance in the same direction. The right of a citizen to a fair and reasonable rate does not depend upon successful or unsuccessful competition with a rival road. Nor is a railroad justified in making a discrimination against a citizen or locality in order to force shippers to send goods over such road. Every shipper has a perfect right, without let or hindrance, to ship and receive his freight over any railroad he pleases in the State, without discrimination or coercion on the part of such railroad. The opposite doctrine is full of danger to the people of the State, and carried out to its logical result, railroads become masters of the people, to command, instead of their servants to do their bidding. The claim of the road to fix an "arbitrary" rate to compel shippers to patronize their road is opposed to reason and against law. The law has attached certain duties to the office of a common carrier, and one of these duties is thus defined :

"The common right is to a reasonable transportation service for a reasonable rate." *McDuffie v. R. Co.*, 52 New Hamp. R. 447. "The conferring upon railroad companies the power to carry freights has imposed upon them the correlative duty of carrying them for a *reasonable compensation*." *Commonwealth v. Fitchburg R.*, 12 Gray Mass. Rep.

"The railroad corporation is under a legal obligation to transport produce and passengers upon its road, and at a *reasonable expense*." *Beekman v. Saratoga R.*, 3 Pa. 74.

Under a charter which permitted a corporation "to fix the sum to be charged," it was held "that the corporation was not entitled to charge beyond a *reasonable rate*." *Bazendale v. Eastern Counties R.*, 4 E. B. [N. S.] 80.

In *Regler v. Monmouthshire R. Co.*, 6 H. and N. Rep. 644, Baron Bramwell said : "To say that the company shall be carriers at whatever rate they shall choose to charge, is to say nothing, because if they did not like to carry they might charge any amount they pleased, and so prevent the public from employing them."

In *Railroad Commissioners v. P. and O. R. Co.*, 68 Maine, 274, a case approved by General Term of Supreme Court of this State in the First Department, the Supreme Court of Maine said : "To make railroads the sole and ultimate judges of the rates of freight at which railroad corporations will transport commodities, is to give them power to control the markets of the country, to create a surplus or a famine in agricultural, mineral and other products ; to raise or reduce the wages of labor, and to promote or retard at pleasure the growth and prosperity of towns, cities and countries."

Commissioner Kernan, in his decision, while disagreeing with Commissioner Rogers, in some points, yet agrees with him substantially in refusing to recommend the relief demanded. He says :

"The Board is, however prevented from making a positive recommendation, for the reason that, under the decision of the Board in *Stevens v. The New York, Lake Erie and Western Railroad*, (Second Annual Rep. Railroad Commissioners, vol. I, p. 180.) the rates from New York to Guilford, Oxford and Norwich are interstate rates, and the matter is inter-State commerce."

In the case referred to (*Stevens et al. v. The New York, Lake Erie and Western Railroad Company*, R. R. Com., 1884, p. 180), it may be noted that the decision was not unanimous, but that a minority report was written by me ; in that report I said :

"The gravity of such a decision will be seen when it is considered that there are twenty-eight railroad corporations chartered by the State of New York, whose

aggregate length is over 5,000 miles, running through or into other States, or about seventy per cent of the mileage in this State, which, under this ruling of the Board, would not be subject to the examination and recommendation provided for in the Railroad Commission Act in a case involving the question of inter-State commerce, and therefore could impose such tolls upon commerce as they pleased, and the citizen would have no remedy for the most unjust discriminations or wrongs committed by such roads.

"In view of these and other important considerations, it seems to me that the Board should give the people, and not the railroads, the benefit of any doubtful questions, such as is raised in this case. If the action of the Board, in obeying the evident intent of the Legislature in the matter of investigation and recommendation, is in any case illegal, the courts of the State are open to restrain its action; but until such time it is the duty of this Board, in the language of our Annual Report, 'to stand between the people and these powerful corporations — on the one hand to protect the people and on the other to see that no wrong is done to the railroads.'"

Under that decision it appears to me the entire Erie railroad is exempt from any control by the State, or by this Board as its agent, in any case growing out of a shipment either out of New York city to any point inland in the State or from any shipment from the west into the State over their road; and this decision now exempts another important trunk line, in similar cases, from the supervision of this Board, and also from all control by the State. Nor is this all; this decision, when applied to all the roads of the State, exempts each and every one from any control by the State, or its authorized agents, in cases arising from unjust discrimination in the transportation of commerce coming from without the State. It also exempts from the control in like cases of the State, or this Board as its agent, every principal railroad in the State leading out of New York city, except the New York Central and Hudson River railroad.

INTER-STATE COMMERCE.

Assuming that the proposition (which is denied, as will hereafter appear) that the question of inter-State commerce is properly before the Board as a factor in the decision of the case, it may not be amiss to consider the question of what is inter-State commerce, but only so far as may be necessary to protect the rights of the complainant in this case; for the general subject is one upon which the best legal talent of the nation is divided, and upon which volumes of opinions and decisions have been written.

The Constitution of the United States (Art. 1, § 8) reads:

*'The Congress shall have power' * * * to regulate commerce with foreign nations and among the several States * * * To make all laws which shall be necessary and proper for carrying into execution the foregoing powers.'*

Article 10. *"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people."*

Referring to the complaint, we find a citizen of the State complaining against a railroad corporation for an unjust discrimination in the matter of freights — the injury complained of being that another citizen, engaged in the same business at a greater distance from market, is favored by the railroad with lower rates, the fact being that the complainant is charged more for a less service than is charged to his competitor for a greater service; therefore he suffers, being discriminated against. The spirit of the law under which the railroad is chartered by the State, as well as the common law, prohibits such an act. The State, in the exercise of its sovereign right and duty, proposes to protect its citizen against the grave wrong attempted by the railroad; and it is met with the declaration that the road from New York city to the west passes a short distance through New Jersey, and, therefore, the State is powerless to protect from an unjust discrimination against one citizen and locality in favor of another citizen and locality.

New York city is the market of the citizen living along the route of the road, both as to the place of sale of his products and the market from whence he buys his supplies. If the opinion of the Commissioner is adopted as the law, the railroad may practice the most autocratic discriminations — charging one citizen twenty-five cents per hundred for shipment, and his neighbor a hundred times as much and still there is no remedy, "because Congress alone has power to regulate this kind of commerce," and Congress having failed to pass any law, the railroad is master of the situation.

If such a decision is established the powers of the railroads in this State are well nigh imperial, and we have reached a point described by the court in another case.

In *Samford v. The Catamissa R. Co.*, 12 Har. 382, the Supreme Court of Pennsylvania said: "If it (the railroad corporation) possessed this power, it might build up one set of men and destroy others; advance one kind of business and break down another; and might make even religion and politics the tests in the distribution of its favors. Such a power in a railroad corporation might produce evils of the most alarming character. *The rights of the people are not subject to any such corporate control.*"

The bare statement of the proposition suggests the inquiry, if this is "the commerce" that the United States Constitution reserves the right to "regulate among the several States?" If this be decided in the affirmative, the important proposition still remains that Congress having failed to act, the State, in its sovereign right, may, and is in duty bound to, protect every citizen within its borders against any injustice perpetrated by a corporation, the creature of the State.

If it is true that the precise question here raised has not been decided by the courts, this alone should forbid the Board to raise it to the damage of the complainant; but it appears to me the courts have not left any reasonable doubt as to the general meaning of this clause in the United States Constitution. The Supreme Court of the United States has laid down the proposition that "Commerce among the States" means intercourse between *citizens* of different States, and between the different States themselves; i. e., the intercourse must be between citizens of different States or between individuals in different States, not in the same State. In the *Federalist*, No. 41, the reason for

the adoption in the United States Constitution of the "commerce" clause is given, to-wit: "*Reciprocal trade of (Confederate) States,*" in other words, to "secure *equality and freedom* in commercial intercourse against *discriminating State legislation.*" The complainant receives his goods from New York city, at a point in this State, on the one hand, and on the other he buys goods at the west, receiving them in the State, and asks that the law of the State, which guarantees him equal protection with every other citizen, shall be exercised in his behalf. His individual dealings with another citizen of the State in receiving or shipping goods from one point to another point in the State is not "*Commerce among the States.*" It is not intercourse between citizens of *different States* or between individuals in different States.

Nor does the fact that he buys and ships goods from outside of the State place him beyond the protection of the State, against an unjust discrimination, as in the case of flagrant overcharges or any other wrong committed against him by any railroad chartered by the State. The great commercial interests of this State, as well as the fundamental rights of its citizens to equal and exact justice from the corporations of the State, are not suspended by such a brittle thread. On the contrary the State is supreme, and no apprehended control or interference by Congress, with the internal affairs of the State, will be tolerated or acquiesced in until at least it is settled by the Supreme Court of the United States.

Upon a question of the right of a State to regulate commerce in the absence of legislation by Congress, see minority report in *Stevens et al. v. The New York, Lake Erie and Western Railroad Company*, (R. R. Com. Report, vol. 1, 1884, p. 189,) and the following authorities: Where the subject of the regulation, though *inter-State*, and not *national* in its character, the States having power to legislate thereon until Congress shall exercise its power to regulate the same is discussed. *The Lottowana*, 21 Wallace, 559; *Gilman v. Phila.*, 3 id., 713; *The Passaic Bridge*, id. 782; *Wilson v. Blackbird Creek Co.*, 2 Peters, 257; *Cooley v. Wardens*, 12 How. 312; *ex parte Neill*, 13 Wall., 236; *Sherlock v. Alling*, 93 U. S. 104; *Mobile v. Kimball*, 102 id. 699.

It will be observed that the *transportation* of freights is not sought to be regulated, only so far as to prevent unlawful discriminations and oppression against the complainant. A general statute forbidding the charging more for a short haul than for a long haul, in the transportation of freight, would be unlawful under the Commissioners' opinion if the freight comes from another State, or if it passed through another State to its destination in this State. But it seems to me very clear that the State may pass such a law, and until such a law is enacted it is the duty of this Board within the line already laid down in the Utica and Black River case, Harding and Hollis, and also report on "*pro rata*" freight bill to Senate, to insist that the railroads adjust their freight charges therewith.

In the case of *Peik v. The Chicago and North Western Railway Co.*, 94 U. S. 164, Chief-Justice Waite, in discussing the power of the Legislature to pass a law providing for maximum freight charges, said: "*The suits present the single question of the power of the Legislature of Wisconsin to provide by law for a maximum charge to be made by*

*the Chicago and North Western Railway Company for fare and freight upon the transportation of persons and property carried within the State, or taken up outside the State and brought within it, or taken up inside the State and carried without. * * * As to the effect of the statute as a regulation of inter-State commerce, the law is confined to State commerce, or such inter-State commerce as directly affects the people of Wisconsin. Until Congress acts in reference to the relations of this company to inter-State commerce, it is certainly within the power of Wisconsin to regulate its fares, etc., so far as they are of domestic concern. With the people of Wisconsin this company has domestic relations. Incidentally, these may reach beyond the State. But certainly, until Congress undertakes to legislate for those who are without the State, Wisconsin may provide for those within, even though it may incidentally affect those without."*

I have already intimated that, in my opinion, this Board has nothing to do with the question of what is or what is not inter-State commerce. The mistake lies in assuming that the Board is a court of jurisdiction. A court of jurisdiction is constituted to administer justice between man and man, with adequate powers to enforce its decisions and punish violators of the law. Before such a court, so constituted, very properly might come, according to its rules, such questions as inter-State commerce. This Board is not a court in any such sense. Its powers are similar to those of a standing or special committee of the Legislature. The act intended that with like powers to such a committee, it should investigate, recommend and report to the Legislature. (See minority report, p. 180, vol. 1, R. R. Com. Annual Report of 1884.) The duty of the Board appears to me plain in any case where such questions are raised to leave them to the courts to decide — particularly in so important a question as that of inter-State commerce, upon which the law books are full of opinions, but which has not been passed upon by the United States Supreme Court or legislated upon by Congress. The taking up of such a defense (not interposed in this case by the road) must inevitably result in hindering and delaying justice to this complainant, besides opening a channel for like excuses to be interposed hereafter in similar complaints.

SHORT HAUL LAW.

Under the decisions of the Board before referred to, the complainant is entitled to relief from a charge upon his freight greater for a short distance than for a longer. He does not ask for a *pro rata* reduction, only that he shall not be charged a greater sum than is paid by his competitors who receive goods on a longer haul.

The practical working of the "Short Haul Law" of the State of Massachusetts, which I understand applies to all freight charges in the State without reference to the question of what is or what is not inter-State commerce, is thus set forth in the last report made by that board (January, 1885, p. 49):

"The inquiry most frequently addressed to the Board upon this matter has been a question whether this law is enforced in Massachusetts, or whether it is, as has been alleged, 'a dead letter.' To this the answer is made, and it is now made once more, that no law in this State is more thoroughly enforced than this. Indeed, it would be more correct to say that, instead of being enforced at all, it is

universally acquiesced in and obeyed. It is true that, in 1882, it was shown that a railroad company in this State was acting in violation of this law; but upon receiving the opinion of the Board that it was so offending, the corporation desisted from the practice, and lowered its rates to conform to the statute requirements. And this was done, as the managers of that corporation informed their stockholders, at the annual loss of \$37,000, illegally extorted heretofore from their customers. Since that time neither this nor any other railroad company has, to the knowledge or belief of the Board, violated this provision of the statutes. And now the fact that, because of their obedience to law, they are not indicted, is used in other States to prove that our act 'is a dead letter.'

"In an extended investigation of freight rates made a year since with reference to other questions, and in some recent inquiries made with special reference to this question, the Board has observed the scrupulous care with which, in spite of temptations, any infraction of this law has been avoided. In exceptional cases, and to a small extent, it may work harshly, but its general working has been most beneficial. It has remedied a great evil and a great injustice; it has helped to save small industries and small places from being crushed out of existence; it has checked the tendency to consolidation, which would build up one place or a few places at the cost of local enterprise, thus creating traffic for the railroads by giving occupation to their customers. And it is believed that any attempt to repeal this safeguard of fair dealing would receive almost universal condemnation from the business men of Massachusetts."

Competition by railroads is not to be suppressed where no one is injured; on the contrary, it should be encouraged in order to develop the highest skill and most faithful service to the people. In the opinion in the case of *Harding and Hollis*, (2d Ann. Rep. vol. 1, p. 160,) referred to by Commissioner Kernan, occurs the following:

"In this case it appears that one party being nearer Oswego by Lake Ontario navigation, receives from Oswego over the Rome, Watertown and Ogdensburgh railroad, on a special rate, flour, feed and grain at a rate two cents per hundred less than another party nearer Oswego. If the road raised the price the goods would be shipped by the water route at the same price as now paid by rail, and the complainant would meet with the same competition as though shipped by rail. The difference in the distance carted makes the absolute cost at the place of business of the respective parties substantially the same, and the road gets presumably a smaller profit on the haul without thereby injuring any shipper or dealer."

Water competition by coasting vessels of another State or nation, and railroad competition by roads of another State, may properly be taken into account in forming a just judgment as to exceptions to the rule, that at least "no greater charge for carrying freight to intermediate points shall be allowed than is charged to competitive points;" however, each and all of these exceptions are subject to the right and duty of the State to protect its humblest citizen against an unjust and wrongful charge by any railroad corporation. The taking of money wrongfully by unjust discrimination in freight charges on the part of a railroad, against a citizen of the State, is, at common law, equivalent to taking it by force; and when persisted in, becomes a crime to be punished by law.

CONCLUSION.

This case, as presented by Mr Bunnell, the complainant, is:

First. A clear case of discrimination against him and other shippers at Guilford, in that higher rates are charged by the New York, Ontario and Western railway than are charged to Oxford or Norwich. The difference in rates, as claimed, is over thirty per cent, and is imposed unjustly and in violation of law.

Second. The charge that the road hauls cars, coming to it at Oneida from the west, past Guilford to Sidney at five cents less per hundred pounds than it charges Guilford, is sustained. That Sidney is a competing point with the Erie and the Delaware and Hudson Canal Company, lessee of the Albany and Susquehanna, is no justification for a higher charge at Guilford; on the contrary, it is good public policy to forbid railroads to charge, within this State, at competing points, less than at intermediate points for the same goods.

Third. The charge of ten cents per hundred on full car-loads of grain from Sidney to Guilford, a distance of nine miles, is excessive. The excuse of the road, that this was done to compel Guilford merchants to bring their grain, etc., from the west *via* Oneida, is manifestly unjust.

However, if the question of inter-State commerce applies at all, it surely applies here, for this grain is, beyond question, "through shipments from the west running over different lines outside of the State." The exception made in this instance by Commissioner Kernan is manifestly just, but logically should cover the whole case, in other words, should be the rule without an exception.

Fourth. The charge by the road of two and one-half cents less at Oxford is not an unjust discrimination against any one. Without this allowance, all goods would come over the other road; and Guilford does not suffer by reason of this allowance.

RECOMMENDATIONS.

I recommend that the New York, Ontario and Western railway do not charge complainant, or others at Guilford, for the transportation of freight, a greater sum than is at the time charged or received for a like class and quantity of freight from the same original point of departure to a station at a greater distance on its road in the same direction.

In order that the complainants may not lose all benefits from this examination, but not as a full measure of justice to them, I concur in so much of the conclusion of Commissioner Kernan as relates to a fifty per cent reduction on rates from Sidney to Guilford.

J. O'DONNELL

Attest:

WILLIAM C. HUDSON,

Secretary.

The company is revising its tariff with reference to recommendations.

XVII.

TRUSTEES OF VICTORY MILLS, SARATOGA COUNTY, *v.* THE BOSTON, HOOSAC TUNNEL AND WESTERN RAILWAY COMPANY.

March 30, 1885.

The trustees of Victory Mills complained that the company run trains through the village on Sundays during the hours of public worship, and that the crossings in the village should be protected by flagmen.

The answer of the company was, that about once a month a train was run on Sundays, and that it was between the hours of 11 A. M. and 12 M. As to the necessity of a flagman the reply was, that the complaint was utterly frivolous, as there was no danger, and no person had ever been injured.

The reply of the trustees was to the end that it was the running of wild-cat engines that was complained of. Upon this being transmitted to the company reply was made in the shape of a printed notice instructing engineers and conductors not to run engines on Sunday through villages during hours of worship. As to the other part of the complaint the trustees withdrew it.

XVIII.

COUPER & Co. v. THE NEW YORK CITY AND NORTHERN RAILROAD COMPANY.

April 8, 1885.

Messrs. COUPER & Co. :

SIRS. — Your communication of 6th inst., in regard to the rates of freight charged you by the New York City and Northern railroad, is received.

The condition of the matter at present, as developed by the correspondence between the railroad, yourselves and this Board is as follows, in brief :

On March 12th, 1885, you complained to this Board of the rates of freight, they being at that time —

Barrel goods.....	7	c. per 100 lbs.
Box goods.....	15	c. per 100 lbs.
Feed.....	6	c. per 100 lbs.
Empties — barrels.....	15	c. per 100 lbs.
Empties — boxes.....	22½	c. per 100 lbs.
Grain from Highbridge.....	4	c. per 100 lbs.

On March 16th the railroad voluntarily reduced your rates to six cents per 100 pounds on *all car lots*, and to ten cents per 100 pounds on broken lots, to take effect from April 1st, and to last for three months.

The road, in its letter to you of the 16th of March, indicates its hope that by the end of the three months your business will have been sufficiently established to determine its extent, so that a permanent tariff can be decided upon that will be mutually profitable.

In your answer to the road of March 19th (a copy of which has been received by this Board from the road), and in your answer to this Board of April 6th, you admit the benefit you will derive, particularly on *empties*, but —

1st. Object to a freight agreement only good for three months.

2d. You demand a four-cent rate to and from the city on manufactured goods, instead of six cents.

3d. You ask a through rate from *the west* for your grain, the same as that charged on the New York Central and Hudson River railroad, and to be placed in the same position as receivers of grain at Dobb's Ferry, the latter place being on the Hudson River, about the same distance from New York that your place, on the New York City and Northern, is from New York.

With regard to the first objection the Board suggests that you wait until the expiration of the three months, when the development of the business will more clearly show what rates are just and reasonable.

With regard to your second claim, that your rates should be four cents instead of six on manufactured goods to New York, the Board calls your attention to the fact that it has no power to recommend a reduction unless you can show an unjust discrimination or unreasonableness. So far as discrimination is concerned, the road claims that you already have the lowest rates of any one on the road.

With regard to your third demand, a moment's consideration will show that you cannot compel a *local* road, such as the New York City and Northern, to deliver grain from the west at as cheap rates as those of a great, direct through trunk line, such as the New York Central and Hudson River. All grain delivered on the line of the New York City and Northern has to come over at least *three* separate roads in this State.

There is no law under which railroads can be compelled to give such low rates to manufacturers as their business may require, although the wise policy of so doing is generally recognized by railroads, provided the railroads derive a reasonable profit from the business.

In view of the fact that the amount of business cannot be determined at present, and that the road has voluntarily made a large reduction pending its development, the Board has determined not to consider the matter further at present. If at the expiration of three months you should again appeal, the Board will consider it.

By the Board.

WILLIAM C. HUDSON,

Secretary.

No further appeal was made to the Board.

XIX.

JOHN ALLYN v. THE NEW WILLIAMSBURGH AND FLATBUSH RAILROAD COMPANY.

April 15, 1885.

Mr. Allyn, of Brooklyn, alleged that he was a stockholder of the above-named company, and that he had applied for information as to the amount owing for horses upon September 30, 1883, and September 30, 1884, respectively, without obtaining the same. Also he asked an explanation of the item in the quarterly report for the quarter ending December 31, 1884, of \$1,348.06, interest "deferred coupons."

The answer of the company was the information desired, as follows: Due for horses September 30, 1883, \$7,395; do. September 30, 1884, \$3,300. The item, \$1,348.06, "deferred coupons," referred to some coupons the payment upon which had been deferred by agreement, the time of payment being left with the company, amounting to about \$5,000 and which were to be paid before any dividends were paid.

The information was transmitted to complainant.

XX.

CITIZENS OF SUSPENSION BRIDGE v. THE NEW YORK CENTRAL AND HUDSON RIVER, THE NEW YORK, LAKE ERIE AND WESTERN, THE ROME, WATERTOWN AND OGDENSBURGH, THE NEW YORK, WEST SHORE AND BUFFALO, THE MICHIGAN CENTRAL AND THE LEHIGH VALLEY RAILROAD COMPANIES.

May 5, 1885.

The complaint is very numerously signed by respectable citizens of Suspension Bridge and reads as follows:

"To the Honorable the Railroad Commissioners of the State of New York:

"Your petitioners, residents of Suspension Bridge, desire to call the attention of your honorable Board to the lack of proper railroad accommodations at this place, and to ask your interference in securing a redress of the crying public grievance which is the result of this state of things.

"This place is virtually a terminus of the New York Central and Hudson River, the New York, Lake Erie and Western, the Rome, Watertown and Ogdensburgh, the West Shore, the Michigan Central and the Lehigh Valley railways.

"To accommodate these railways there are two temporary depots, both of which are deficient in decent, not to say comfortable, accommodations.

"When the Erie railroad was first completed to this place in the year 1871, a rough board shed was hurriedly built for a depot, as the wants of the road increased, addition after addition has been put up, in the same style until they now stand an aggregation of shanties, which we have no hesitation in saying has not its counterpart on the continent of America for uncouthness and lack of decent conveniences for the traveling public. Photographs of the buildings hang in nearly every railroad office of the country as the climax of 'abhorrent and repellant' railroad architecture.

"The New York Central and Hudson River railroad depot at this place was burned January 2, 1882, and a temporary structure was hurriedly built, as the railroad officials said to accommodate the public until spring. This temporary structure still stands and is the sole accommodation which the passengers of the above road and those of the Grand Trunk, Rome, Watertown and Ogdensburgh and the Michigan Central have at this point.

"While the temporary structure does not present so hideous an aspect as the Erie shed, it is even more deficient in necessary conveniences. The gentlemen's closet stands across the tracks 300 or more feet distant and is not fit to enter when reached.

"There is no retiring room for ladies of any name or nature attached to this depot, and ladies and children have to be sent to neighboring hotels, the nearest of which is across the highway, to answer the calls of nature.

"When we say that hundreds of passengers use these depots daily; that often they are detained here hours; and that frequently a belated train will land large numbers of women and children here at midnight, when all hotels are closed,

your honorable body will recognize the barbarity which attends their stay in the railroad depots of this place.

"If your petitioners should recite one of the incidents which modest women and blushing maids daily experience in these depots, your honorable body could not fail to blush for the Commonwealth in which they occur."

Complainants, sometimes in their zeal to have railroads furnish increased and improved facilities, overstate their grievances. After a careful inspection, however, by a Commissioner, the Board in this case is compelled to find that the complainants have done no more than fairly to present the facts. The depot accommodations at Suspension Bridge are entirely inadequate and totally unfit for the public use and accommodation. The depot of the New York Central, used as well by the Grand Trunk, Michigan Central and Rome, Watertown and Ogdensburgh, was designed for temporary use. Its replacement by a suitable depot with proper conveniences has been delayed, as is alleged, by the dilatory conduct of the Grand Trunk. The period during which such an excuse ought to be received by the public has passed, and the New York Central ought at once to take action for the proper protection and accommodation of travelers upon its own line, as well as for those upon the lines to which it furnishes depot facilities by agreement. The New York, Lake Erie and Western depot, to which the trains of the New York, West Shore and Buffalo, and Lehigh Valley railroads have access, is an "aggregation of shanties," disgraceful to the roads responsible for their use as a depot, custom-house, etc. It expresses a total disregard for public needs and requirements, and seems for some thirteen years to have stood as representing defiance of public opinion and a determination not to comply with legal and charter obligations. It is built in parts added here and there out of rough boards, and is neither lathed, plastered, painted nor even kept clean. Its approaches, track crossings and surroundings are in perfect keeping with the dilapidation and unsightliness of the depot itself.

To the complaint the road answers that "As soon as the revenues of this company will permit, this and many other such matters will receive careful attention." The responsibility for the condition of things at Suspension Bridge is largely with the old management; it is fair to presume that the present management has not had sufficient time in which to fully remedy this and "many other such matters." The road can hardly, however, mean that its revenues are so impaired as to require that all further fulfillment of its obligations to the public at Suspension Bridge must wait until in the judgment of the management the revenues of the company sufficiently increase. The Board understands the law to require a railroad, so long as it exercises its franchise, to furnish reasonably clean and convenient, even if simple, facilities and accommodations.

RECOMMENDATIONS.

The recommendations of the Board are :

1. That the New York Central and Hudson River Railroad Company provide and furnish at Suspension Bridge, within three months, a new and sufficient depot for the use of itself and of the lines to which it is by agreement bound to furnish depot accommodations:

2. The same recommendation is made as to the New York, Lake Erie and Western ; also that its crossings and approaches and depot yard be properly planked, graded and filled.

3. The Board suggests for the consideration of the roads centering at Suspension Bridge the manifest advantage, economy and public accommodation which would be insured by the construction of a union depot, sufficient in its facilities for the use of all the roads.

By the Board.

WILLIAM C. HUDSON, *Secretary*.

The companies have not as yet complied with the recommendations of the Board.

XXI.

CARTMEN OF NEW YORK CITY *v.* RAILROAD COMPANIES HAVING FREIGHT RECEIVING DEPOTS IN NEW YORK CITY.

May 26, 1885.

The cartmen complained, first, that it had been the custom of the railroad companies to receive freight up to 5 P. M., but that the time had been changed to 4 P. M. ; and, second, that there was not a sufficient labor force at the freight depots to properly expedite the business.

An investigation discovered the fact that freight was received from carts in line at 4 P. M., even if the hour reached was 7 P. M. ; that the rule had been made because that freight received after those hours could not be properly loaded in cars and dispatched in the evening trains, and that as large a force of laborers were employed as could simultaneously unload all the trucks that could be got on the pier and under the sheds at once.

The complaint was dismissed.

XXII.

S. & J. W. POST AND OTHERS *v.* THE LONG ISLAND RAILROAD COMPANY.

May 5, 1885.

After a full and complete hearing herein, the Board (Commissioner Rogers dissenting) recommended a reduction of the milk rate upon the Long Island road from thirty to twenty-five cents per forty-quart can. The road applied for a rehearing. This was granted, and the case is now before the Board for determination upon the additional evidence and arguments presented.

It is asserted by the road that in reaching its conclusion the Board did not sufficiently weigh and consider certain facts bearing upon the question, which are now urged in behalf of the road.

It is argued that Long Island is not as well suited as are other localities to produce milk; that the business is comparatively small, and is not liable to increase; that the road has created a considerable home market for the milk producers, by its liberal policy toward commuters and excursionists; that the producers receive a somewhat better price than upon the Erie and Harlem; also that the road reduced its rates upon cauliflower and in other directions which promised increased business, and that by such reductions the farmers were and are much benefited. These facts are all entitled to some weight in the decision of the question, and in the conclusion reached by the Board were duly considered. The road also insists that the middlemen are stirring up this commotion; that reduction in rates will not benefit the farmers or the consumers, and hence that the rate should not be disturbed. This argument is not valid, and proves nothing to the point. How has the conduct of producers, consumers and middlemen toward each other any thing to do with the question of whether the railroad rates are reasonable or not? If a rate is unreasonably and relatively too high, it cannot be sustained merely because those entitled to share in the reduction will not treat each other equitably in its division.

In its former decision the Board stated that the milk rate was relatively too high as compared with the rates upon other articles carried by the road. The road combats this position and insists that, all the circumstances being fairly considered, its milk business at the present rates is comparatively less profitable, and hence that the rates are none too high. Partly from its books and partly from estimate, it presents the following:

Miscellaneous freight earns per car per trip.....	\$18 00
Feed and grain earns per car per trip.....	15 00
Coal earns per car per trip.....	15 00
Lumber earns per car per trip.....	14 00
Manure earns per car per trip.....	13 50

It is estimated that one-half of the cars are loaded back, and thus earn one-half of the above amounts on return trips. A comparison is then instituted between six of each class of cars and the milk cars, thus:

Six east-bound box-cars at \$17 each.....	\$102 00
Six west-bound box-cars at \$8.50 each.....	51 00
Twelve east and west-bound box-cars earn.....	153 00
Box-cars, earnings per car per trip.....	12 75
Gondolas, earnings per car per trip.....	10 00
Average.....	11 37½
Six milk cars at \$22 each, allowing \$1 per car for extra expense.....	132 00
Earnings per car per trip.....	11 00

There are some defects about this comparison, such as that milk cars have some earnings from other freight than milk; also that the comparison overlooks the return of empties free, except in the case of milk.

Again, in the comparison we are left to assume that each box and gondola car makes a complete round trip, as a milk car does, within

each twenty-four hours. There is nothing to warrant this assumption and it cannot be true. If it were, the average earnings of freight cars upon the Long Island road, instead of being about \$3.20 per car, as shown in its last annual report, would be nearer the figures above given. In the Harlem milk case it was proved that it takes a larger equipment to earn the same amount in miscellaneous freight transportation as a given number of milk cars earn, because of the uncertainty of getting full and regular loads, and because of the greater delays in loading, handling and unloading.

Upon the hearing, Mr. Heald, the traffic manager who prepared and submitted the foregoing figures, stated: "I am ready to admit that the earnings from a milk car being a regular earning — if I could get the same business for every car on the road, I would be very glad to put them all in the milk business."

Q. Is it not true as a result of that, that the business, comparing it with any other business on the road, in proportion to the amount of service you have to render and the number of cars employed in it, returns you a larger return for the work?

A. In proportion to the cars we get a larger revenue, but in proportion to the whole business we don't.

This would hardly seem to be sustained by the following table made up from the statistics furnished, showing the receipts for four average weeks to and from western terminals:

	Tons.	Price per cwt. cts.	Price per, ton.	Total.
Beer	329	11½	\$2 30	\$758 70
Brick	564	4½	85	479 40
Fertilizer ..	350	8	1 60	560 00
Coal	3,938	6	1 20	4,725 60
Feed	2,237	7½	1 45	3,246 65
Flour	422½	10	2 00	845 00
Lumber	1,750½	9	1 80	3,150 80
Manure	5,560	6	1 20	6,672 00
Potatoes	333	10½	2 10	1,455 80
Cauliflower ..	250	25	5 00	1,250 00
Fish	270½	22½	4 50	1,217 25
Oysters	564	11½	2 30	1,297 20
Pickles	560	8½	1 75	980 00

The road carries an average of 482 cans of milk per day. These at 110 pounds each for twenty-four days equal 636½ tons. 636½ tons at 30 cents per 110 pounds = \$5.45 per ton = \$3,467.56.

It does not appear that the average mileage of milk exceeds that of other freight.

It will thus be seen that milk yields a larger revenue upon the tonnage handled than do many other articles. Especially will this be observed as to those articles, such as beer, potatoes, etc., when, as with milk cans, the empties are returned free.

There is a popular idea that freight rates can and ought to be reduced to the lowest rates charged upon any one article. This is not true. If enforced it would destroy all principles of classification, and in the end would be very injurious to the community. A minimum rate per 100 pounds is required in order to enable articles such as grain

manure, brick and coal and coarse freight to be transported. There must, however, be applied to some classes of property a higher rate, in order that the aggregate sum of earnings may be that to which the road is entitled in order to pay expenses, dividends, etc. The true object of classification is to place the maximum rate where it will be least burdensome. Were a minimum rate applied to all articles transported it would have to be so high as to prohibit the movement of many articles of great bulk and small value.

For these reasons as well as because of those stated in the former report the Board does not agree to the suggestion that milk rates should be as low as the rates on potatoes, cauliflower, etc. While conceding that the circumstances surrounding milk transportation entitle the road to charge therefor a higher rate than upon the articles with which it is compared, the Board deems that the milk rate is comparatively too high. Again, in the Harlem milk case the Board ascertained the milk rates to the principal cities of the United States and to some extent abroad. (See first Annual Report, page 178, etc.)

Therefrom it appears that thirty cents for an average haul of twenty-nine miles is very much higher than railroads anywhere charge this traffic.

Should increased production and transportation follow the reduction below recommended, the Board again urges the road to consider the expediency of further reducing its rate on milk to twenty cents.

CONCLUSION.

For the present, and after careful consideration of the case and of all the evidence and arguments presented, the Board again recommends that the milk rate upon the Long Island road for the service now rendered be reduced from thirty to twenty-five cents per forty-quart can.

JOHN D. KERNAN,
Commissioner.

I concur in the conclusion.

JOHN O'DONNELL,
Commissioner.

I dissent from the above findings and recommendations for the reasons given in my former report on this case, to be found on page 199 of the first volume of the second Annual Report of the Board of Railroad Commissioners.

WILLIAM E. ROGERS,
Commissioner.

Attest:
WILLIAM C. HUDSON,
Secretary.

This company has failed to conform, which failure has been reported to the Attorney-General.

XXIII.

L. L. BARNEY v. THE SYRACUSE DIVISION OF THE ROME, WATERTOWN AND OGDENSBURGH RAILROAD COMPANY.

June 4, 1885.

Mr. Barney complained to the Governor of the State that the condition of the Syracuse division of the Rome, Watertown and Ogdensburgh railroad was such as to make it dangerous to travel upon. The Governor referred the complaint to this Board, which promptly caused an inspection to be made.

The inspection developed the fact that while the road was rough it was not in a dangerous condition, except when trains were run at a very high rate of speed. The roughness was due to lack of ballast, poor ties and the upheavals incident to the frost leaving the ground. The attention of the road to these defects was directed by the Board. Notice has been received that the repairs are being made.

XXIV.

C. R. QUIMBY v. THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY.

June 5, 1885.

Mr. Quimby resides at Pleasantville station, in Westchester county, and complained to H. G. V. DeHurt, M. D., the local health officer, of the unsafe condition of the platform at the station of that place, the timber being so decayed as to be dangerous to life and limb. Dr. DeHurt reported the complaint to the State Board of Health, which department referred the matter to this Board. The answer of the road was that at the time of the receipt of the complaint by the company, the platform at Pleasantville was being changed.

XXV.

EMPLOYEES v. THE NEW YORK, ONTARIO AND WESTERN RAILWAY COMPANY.

June 23, 1885.

The employees complained that the men employed on the milk train were compelled to labor thirty-five out of the forty-eight hours, and run 204 miles, loading 1,200 cans, and every third day making twenty-six hours without sleep or rest. The company answered that the state of affairs complained of was only temporary, and that notice had been issued that on April 12, 1885, the milk train crews would make a round trip from Walton to Weehawken, 354 miles, in two days and lay off the third, making a daily average 118 miles. On this being brought

to the attention of the person speaking for the employees, he contradicted the statement, and the statements of the general superintendent and the employees being at such wide variance, the Board declined to go further in the matter, unless a formal and public complaint was made, when an open investigation could be made.

XXVI.

GEORGE O. MEMBERY *v.* THE UTICA AND BLACK RIVER RAILROAD COMPANY.

June 4, 1885.

Mr. Membery complained that the Utica and Black River Railroad Company did not maintain the fences along the line of his property in good repair.

The company remedied the evil when the matter was brought to its attention.

XXVII

C. S. WHITAKER ET AL. *v.* THE NEW YORK, LAKE ERIE AND WESTERN RAILROAD COMPANY.

June 2, 1885.

This was a petition of residents of Delaware county asking that the New York, Lake Erie and Western Railroad Company be compelled to erect and maintain in good order the fences along its line.

The company replied that a thorough examination had been ordered; as soon as was ascertained what fences were necessary to put up or repair, the work would be done.

The petitioners were notified of this and requested to inform the Board after a reasonable time if the company had performed its promise.

The company has performed its promise.

XXVIII.

APPLICATION OF THE BOARD OF TRADE AND TRANSPORTATION REQUESTING THE BOARD OF RAILROAD COMMISSIONERS TO SEEK FROM THE ATTORNEY-GENERAL AN OPINION TOUCHING THE MATTERS REFERRED TO IN A REPORT SUBMITTED TO THE BOARD.

June 9, 1885.

To the New York Board of Trade and Transportation :

GENTLEMEN — Your communication of the 20th May, conveying a resolution of your Board, passed on the 13th inst., in conformity with a report of your Committee on Railway Transportation, consist-

ing of Messrs. F. B. Thurber, Chas. L. Rickerson, H. K. Miller, Nathan Allen Doty and Martin M. Day, petitioning this Board "to seek from the Attorney-General of this State an opinion as to the power of said last-named Board (of Railroad Commissioners) to *investigate* and make recommendations touching the operations of the railroad corporations of this State in respect to such (*i. e.*, inter-State) commerce," has been received.

In connection with your communication the Board calls your attention to the following facts, which seem to have been inadvertently overlooked by your Committee on Railway Transportation:

1st. A court of competent jurisdiction has decided that this Board is its own judge of the propriety of making an investigation into the affairs of any railway, when petitioned so to do by a citizen or citizens. In the case of *R. F. Stevens et al. v. The New York, Lake Erie and Western Railway Company*. The plaintiffs in that case petitioned the Supreme Court for a writ of *mandamus* to compel this Board to continue investigation of the New York, Lake Erie and Western milk rates. The case was argued by the Attorney-General on behalf of the Board, and decided in its favor by Justice Bartlett, August 4, 1884.

2d. The report of your Committee on Railway Transportation says: "The Board (of Railroad Commissioners), by a majority vote, declined to make any investigation or recommendation in respect to the matter, assigning as a reason for its refusal that it was without power so to do, inasmuch as the subject-matter of the proposed '*investigation*' was inter-State commerce. This proposition has been recently reaffirmed by the same majority of the Board in the case of *Bunnell v. The New York, Ontario and Western Railway Company*."

Your committee appear to lose sight of the distinction between "*recommendation*" and "*investigation*."

So far from the Board declining to make the investigation on this ground it was *particularly* maintained by the Board, and conceded by the railroad company, that the Board *had* the power to make the *investigation*. (See report of Board, pp. 4, 5.)

What the Board decided was that, inasmuch as the article (milk carried through *New Jersey and delivered at Jersey City*) was a subject of inter-State commerce, that, therefore, the State could not even legislate with regard to the price for such transportation, it would be an unwise intrusion for this Board to make a *recommendation* with regard to a reduction which could not be enforced.

The reasons given by the Board for discontinuing the *investigation*, however, were quite different from those alleged by your Committee on Transportation. They were as follows:

"The general subject of milk rates and the service connected therewith on the Erie road was thoroughly investigated by the Hepburn committee, and its full report of the evidence and facts is of recent date. Their repetition would consume time and do no good. Again, when these complaints first came to the Board the Erie milk rate was forty cents per forty-quart can. Since then it has reduced the rates to twenty-seven and one-half cents, or thirty-three and one-third per cent, to meet the Harlem reduction made under the recommendation of this Board. This reduction has only been in force since January, 1884, and the Board thinks it but fair to permit the reduced rate to be thoroughly tested before further investigating the subject upon roads which have made the reduction. For the reasons stated the Board declines to entertain the complaints, or to investigate or recommend as asked."

3d. Still another error is made in the statement of your committee, to-wit, "This proposition has recently been reaffirmed by the same majority of the Board in the case of *Bunnell v. The N. Y., Ont. and West. Ry. Co.*"

So far from the Board declining to make an investigation, a most complete and thorough *investigation* was made of all the facts and circumstances involved in the complaint of Mr. Bunnell. Three separate opinions were written, in one of which only the conclusion was reached that, as the rates of freight complained of were upon articles of interstate commerce, this Board had no authority to *recommend* a reduction.

Three quite different conclusions were reached in the case.

It would seem that the statement of your committee must have been made without reading the opinions. Copies are therefore sent herewith.

4th. A serious error of law is fallen into by your committee, and inadvertently indorsed by your whole Board, where they say, "It seems to your committee that the act of the Legislature creating the Board of Railroad Commissioners and imposing upon it the duty of investigating the operations of the railroad corporations of this State left it no alternative but to make such investigation upon petition of citizens of this State, and that in passing upon the question whether the subject-matter of the investigation was or was not interstate commerce, your committee deem that the Board has inadvertently assumed judicial functions not given it by law."

There are two propositions made here, first, that the Board is compelled by law to investigate *every complaint* (whether any reasonable foundation for it exists or not); second, that the Board has assumed judicial functions, etc.

As hereinbefore stated, the Supreme Court of the State has decided that the Board must be allowed to exercise its own discretion as to what cases it will investigate. A moment's consideration on the part of your intelligent body will demonstrate the wisdom of this decision. Were it otherwise the whole machinery of the State could be put in motion at the instance of any malicious or unreasonable person. He would not be deterred, as in other courts of justice, by being mulcted with costs when the case is decided against him, for no costs are imposed upon the complainant before this Board for witnesses subpoenaed, or for any of the other expenses incurred. In fact every thing which makes litigation so expensive ordinarily is paid out of an appropriation made by the Legislature and assessed upon the railroads.

It is quite evident, therefore, that to protect itself, to protect those citizens who bring *bona fide* claims or grievances, to protect the railroads who pay all costs, whether the case is decided for or against them, and to protect the dignity of the State, this Board ought to exercise its own discretion as to what cases it will investigate.

There is no clause whatever in the law of its creation requiring the Board to investigate any matter whatever at any one's instance except as to any "proposed change of the law relating to any railway or railways, or proposed change of the general law in relation to railways, if requested to do so by the Legislature, or by the committee on railroads of the Senate or Assembly, or by the Governor, or by any railroad

company, or by any incorporated organization representing agricultural or commercial interests in the State."

It may be proper to state, however, as a matter of fact that the Board *has* investigated every complaint brought before it, large or small, *trivial or important*, with the single exception of the Erie milk rates. It did not investigate those for the reasons fully set forth hereinbefore and given at the time. It is furthermore pertinent to say that some weeks before the receipt of the resolution of the Board or Trade it had begun an investigation of these very milk rates on the Erie road for the reason that it understood they had been raised since the first of January.

To recapitulate, then, this Board has always claimed the right to *investigate all* transactions entered into by corporations of this State, whether such transactions involved articles of inter-State commerce or not. It has frequently done so, notably in the case of the rates charged by the trunk lines on drygoods, in that of the rates charged for elevating grain, in the diversion of freight by the trunk lines, and in many others. To ask the Attorney-General for an opinion on the subject would, therefore, be unnecessary.

Where, however, the subject of complaint turns out to be as to the rates of freight upon an article of "commerce among the several States," or as it is popularly termed, of inter-State commerce, the majority of the Board has deemed it beyond its power to *positively recommend* a modification or reduction, for the reason that the Constitution of the United States, sustained by the decisions of the United States Supreme Court, provide that this matter shall be regulated by Congress alone.

The Board has gone so far as to make recommendations even in such cases, indeed, where the right to demur to the jurisdiction of the Board and State has been waived by the railroad, or not specifically claimed. But where such specific demurrer to the jurisdiction of the State and of the Board has been made, the Board has deemed it proper to refrain from *positive recommendation* (using the word technically), but has stated what it deems would be the just and equitable course for the railroads to adopt.

Whenever a case shall arise in which a recommendation of the Board is not complied with upon the ground that the subject thereof is a transaction of inter-State commerce and therefore not within the jurisdiction of the Board, the Board will report it to the Attorney-General for his consideration and action, and will deem it a public benefit to have the courts determine the extent of the jurisdiction of the Board.

By the Board,
WILLIAM C. HUDSON,
Secretary.

XXIX.

R. M. HASBROUCK v. THE BOSTON, HOOSAC TUNNEL AND WESTERN RAILWAY COMPANY.

June 9, 1885.

By Commissioner KERNAN — The railroad company is complained of because on presentation thereof it refused to receive a ticket issued by the company for a passage from Schaghticoke to Reynolds in payment for transportation from Reynolds to Schaghticoke. The company admits the fact and asserts that its action is right and proper. The Board is asked to recommend "that the company honor tickets from adjoining stations to Reynolds as if said tickets read from Reynolds to such stations, inasmuch as no tickets are sold at Reynolds."

According to the time-tables of the company Reynolds is a regular stopping place for some accommodation trains and a flag station for others. It furnishes the company insufficient business to warrant the expense of maintaining a ticket office at that point. There is no statute in this State which applies to the subject, and the only question is whether the rule of the company which forbids what is desired is reasonable and just toward the public. The rule is general, although not universal, that a ticket shall not be available, except between the stations named upon it, and shall only be used in the direction which it indicates. This rule seems reasonable and has not been adjudged otherwise in this State as far as the Board is advised. The Board does not think that there should be an exception at Reynolds simply because tickets are not sold at that station. No additional fare is required from those leaving Reynolds beyond what the price of a ticket would be. Thus the limited travel from Reynolds is as well accommodated as though provided with tickets. Why, therefore, should not a person leaving Reynolds pay his fare instead of insisting that a ticket reading in the opposite direction should be received, for the sole reason that no tickets are sold at Reynolds station? Nothing appears to show that the public are injured or inconvenienced.

In his reply to the answer of the road the complainant well maintains that he has not been well treated, and that the road has acted in a manner worthy of censure.

The correspondence between the complainant and the company develops the following facts: On October 15, 1884, the complainant wrote to the company, asking that conductors be ordered to accept from passengers going from Reynolds to Mechanicville tickets reading on their face "Mechanicville to Reynolds," and from passengers going from Reynolds to Schaghticoke, tickets reading "Schaghticoke to Reynolds."

The general manager answered that "our conductors will always accept tickets between points you name when presented by a passenger." Until January 22, 1885, such tickets were accepted reading in the reverse way. On that date suddenly and without notice the company discontinued the practice, and refused to accept such a ticket from the complainant. He again appealed to the company. The general manager then answered "my letter of October 18 does not say that tickets will be honored the reverse way from which they read, and did

not refer to that question." The complainant replied, "that it was difficult to understand what was meant in the letter of the general manager if it was not that tickets reading in the opposite direction would be received." The road then replied that "it did not see the point in the letter to it of October 14, when it first answered." This is certainly a very extraordinary statement. Having answered a direct inquiry about the receipt of tickets reading reversedly in the affirmative, and having thereafter received them until January 22, 1885, it certainly looks like quibbling for it to turn around and affirm, in the first place, that it only meant that tickets would be received as they read, as though any one needed information of that kind, or would address an inquiry upon such a subject, and then to close the matter afterward by saying that "it did not see the point of inquiry," etc., "when it first answered." In his letter of January 24, 1885, the general manager asks, "Why will not buying round trip tickets answer the purpose?" To this complainant answers: "This is the first intimation that return tickets between stations were to be had. Of course and to a certain extent they will answer my purpose." To this the answer is, "I do not know that round trip tickets are on sale to Reynolds but suppose they are, or can be arranged if possible." It would certainly seem as though the general manager of a company ought to have, or at least be able to obtain more precise knowledge about such matters. Having suggested round-trip tickets himself, he ought, after receipt of complainant's acquiescence therein, to have seen to it that the same were provided.

In view of these facts the Board, on April 24, informed the company that in its opinion this was a matter which ought to be amicably adjusted. The Board was quite naturally of the opinion that the road would in good faith carry out its own proposition as to round-trip tickets, and that thus the complaint would be remedied so far as the Board felt it could recommend, in a way which would preserve friendly relations between the road and its patrons. The road answered, however, that "it did not see wherein it had failed in its duty in the matter, and it cannot properly grant Mr. Hasbrouck's request, and therefore considers the matter settled, so far as it can lawfully do so."

Under these circumstances, while the Board cannot recommend that the prayer of the complainant be granted, it does recommend that round-trip tickets to Reynolds' station as to other stations be placed in its ticket offices for the use of the public, thus enabling persons to provide themselves with tickets good from Reynolds, to some extent.

By the Board.

WILLIAM C. HUDSON,

Secretary.

The company has complied with the above recommendation.

XXX.

GILBERT DUBOIS *v.* THE NEW YORK, ONTARIO AND WESTERN RAILWAY COMPANY.

June 10, 1885.

Mr. DuBois complained of insufficient accommodations at Summitville, Ulster county, in that between the platform and the main line there was a switch, so that as the trains approached the station on the main line, the ascent to the cars must be made from the ground, making a very long and inconvenient step. Besides this, the ground was often muddy or icy and the passage made with difficulty and danger.

The company acknowledged the justice of the complaint and reported that the general superintendent had given instruction to shift the tracks, so that the main track would be next the depot and the switch outside. Other changes were reported which would afford even greater conveniences than were asked for. Subsequently (June 10) the complainant reported to the Board that the change asked for by him had been made and that other improvements were in progress.

XXXI.

PETITION OF H. F. MARTINEAU TO BE RELIEVED FROM THE CENSURE OF THE BOARD.

May 5, 1885.

In its report upon the "collision on the Rochester and Niagara Falls branch of the New York Central and Hudson River railroad, about 9 P. M., on the night of 28th May, 1884," the Board found that the accident was caused by the neglect of H. F. Martineau, operator at Murray, to hold a train as ordered. The Board said, "the operator at Murray, H. F. Martineau, was inexcusably at fault; he is a boy but fifteen years of age, however, and should not have been put in a position of such responsibility. He had been in the position one year and was, therefore, but fourteen when first employed; he makes no effort to exculpate himself, but admits that he was playing a game of checkers and forgot all about the order." In its conclusion the Board censured the train dispatcher and division superintendent, for hiring so young a boy to be telegraph operator at Murray, notwithstanding the fact that the boy bore a good reputation, and had been instructed by a careful operator.

Martineau now petitions the Board to withdraw its censure, under which he has suffered for a year, and because of which he is unable to procure employment. His petition is sustained by many prominent people of Albion, where he resides. His teachers at school unite with clergymen and business men in testifying to his good character and to his worthiness of trust. Martineau has already been sufficiently punished for his boyish carelessness, and so far as the censure of the Board affected him, it ought to be withdrawn in view of his extreme

youth when the accident occurred; of his full appreciation of his present position, and of the earnest desire of himself and of his reputable friends that he be given a chance to begin again. The Board has no doubt that he will be found competent and faithful, in any position where his responsibilities are not greater than are warranted by his years and experience. The complete responsibility of an operator ought never to be intrusted to those so young as to be unable to fully appreciate the same.

The Board, therefore, withdraws its censure of Martineau so far as to permit, without objection, his employment in some position suited to his years and capacity.

By the Board.

WILLIAM C. HUDSON,
Secretary.

XXXII.

SEYMOUR C. ARMSTRONG *v.* THE ADIRONDACK RAILROAD COMPANY.

July 8, 1885.

Mr. Armstrong complained to the Board that the Adirondack Railway Company had built its road through his property, and though he had built his fence about three sides of his property, the company had neglected to build the fence along its line. Not only had his sheep and cattle been killed on the road, but his cattle had strayed into the crops of his neighbors and committed damages for which he was held responsible. The company he complained of had been repeatedly notified and repeatedly had promised to build the fence without doing so. He, therefore, appealed to the Board.

In reply the company stated that at the time of its writing, ten days after its receipt of the complaint, the fence was being built and was by that day completed.

XXXIII.

CITIZENS AND TAX PAYERS OF THE TOWN OF HARPERSFIELD *v.* THE ULSTER AND DELAWARE RAILROAD COMPANY.

July 21, 1885.

By Commissioner KERNAN — The Rondout and Oswego Railroad Company was organized under the General Railroad Act, on April 3, 1866, and located its line from Rondout to Oneonta, through the town of Harpersfield.

In 1875, through foreclosure and reorganization proceedings in the interests of the bondholders, the road and its franchises were transferred to the Ulster and Delaware Railroad Company, a company organized on June 12, 1875, under chapter 430 of the Laws of 1874.

The road has been built and is operated from Rondout to Stamford, a distance of seventy-four miles. It never has been built from Stamford to Oneonta, a distance of twenty-four miles, as provided generally in the articles of incorporation, or as specifically determined in the location map. A part of the unbuild line is in the town of Harpersfield.

The complainants ask that the road be compelled to complete its line, or that the money of the town invested in the road be refunded. The form of the prayer for relief is unimportant, as it is the practice of the Board to grant such relief within its powers as the facts warrant.

Upon the part of the complainants, it is insisted that the time for the construction of the road of the Rondout and Oswego Railroad Company has expired; that its successor, the Ulster and Delaware Railroad Company, stands in the shoes of the old company, with all of the rights and franchises, and subject to its duties and public obligations; that the defendant company is, therefore, in default in failing to complete the line; that the State can forfeit its charter, or compel it by *mandamus* to fulfill its duty and complete the road. Conceding for the present that in the eyes of the law the defendant is a new company in form only, under and subject to the charter of the old company, it becomes important to consider whether the time for the construction of the Rondout and Oswego road has expired. In 1866, section 47 of the General Railroad Act, being the charter of the Rondout and Oswego road, provided:

"If any corporation formed under this act shall not, within five years after its articles of association are filed and recorded in the office of the Secretary of State, begin the construction of its road and expend thereon ten per cent on the amount of its capital, or shall not finish its road and put it in operation in seven years from the time of filing its articles of association as aforesaid, its corporate existence and powers shall cease."

By chapter 775 of the Laws of 1867, the time for completion of the road is extended to ten years. The time for the completion of the road would thus expire on April 3, 1876.

It follows, in the view suggested, that the defendant company has since April 3, 1876, been in default in failing to fulfill the obligations assumed by it, of completing the road within the ten years given to the Rondout and Oswego company.

The defendant company, however, urges that its obligation to complete the road is not to be found in the charter of the old company, but that under the reorganization act, being chapter 430 of the Laws of 1874, the time limited in section 47 of the general act, dates from June 12, 1875, the time of its own incorporation.

Chapter 430 of the Laws of 1874 permits the purchasers of a railroad at foreclosure sale to form a new corporation, etc. It then provides:

"And upon the due execution of such certificate, and the filing of the same in the office of the Secretary of State, the persons executing such certificate, and who shall have acquired the title to the property and franchises sold as aforesaid, their associates, successors, and assigns, shall become and be a body politic and corporate by the name specified in such certificate, and shall become and be vested with and entitled to exercise and enjoy all the rights, privileges and franchises, which at the times of such sale belonged to or were vested in the corporation formerly owning the property so sold, and shall be subject to all the duties and

liabilities imposed by the provisions of the act, entitled 'An act to authorize the formation of railroad corporations, and to regulate the same, passed April 2, 1850, and of the acts amendatory thereof, except so far as may be inconsistent herewith.' "

The complainants cite in their behalf the case of *The Town of Sandy Creek v. R., W. and Og. R. R. Co.* (Report for 1884, p. 136). The Board there held that the obligation of a railroad to maintain and operate its entire road when constructed is the price of the franchise, and follows and clings thereto through any and all changes in ownership and management, whether such changes arise from foreclosure, lease or consolidation. The same principle would sustain the complainants in this case were it not that in the reorganization act above cited the new company is made subject to "the duties and liabilities imposed by the general act, etc." Upon the complainants' theory this provision has no meaning or use in the reorganization act.

If the new company be in all respects simply the old company revived under the old charter, to-wit, the general act as it applied to the old company, then it was idle and useless to provide in the reorganization act that the new company "shall be subject to the provisions of the general act."

Suppose the stockholders of the old company became liable for debts by reason of their failure to pay in the capital stock, would it be true that this liability attached to stockholders in the new company? Is it not perfectly obvious that the liabilities of stockholders in the new company relate only to the new company as an independent organization? Again, suppose that the old company had failed to file reports under section 32, would the penalties imposed be a burden assumed? Assuredly not, the liability of the new company as to such like matters is for its own acts only. In some respects therefore the reorganization act has made the new company an incorporation with other duties than those imposed upon the pioneer company. In so far as this has been done the duties and obligations of the new company are those imposed by the general act upon a new corporation, and not the unfulfilled duties and obligations of the old company. In the case under consideration we think it very clear that the duty imposed upon the defendant before the Board was not to complete the road within the time remaining under section 47, to the Rondout and Oswego road, but that the Ulster and Delaware Railroad Company took the road in its uncompleted state with the obligation of completing it within ten years from the date of its own incorporation. If an opposite view were taken what would have been the position of the new corporation if, at the time of foreclosure, the time for construction had expired? Without further legislation nothing would have been acquired under the foreclosure and reorganization proceedings, except a charter and a property liable to immediate forfeiture. Thus the apparent design of the reorganization act to revive and put in operation a corporation capable of pushing on the enterprise and operating the road would have been lost. Chapter 598 of the Laws of 1875 has extended the time until June 12, 1887, and chapter 405 of the Laws of 1882 seems to have further extended the time for completing the road until June 12, 1889. The Ulster and Delaware road is not therefore in default in completing its road. No legal proceeding or action on the part of the State can lie against it because of not completing the line until the

default shall occur. The complaints urge that the long delay in pushing the work in the town of Harpersfield, and the appropriation of the money of the town to other parts of the road, is such evidence of an intention never to complete the road, as to warrant the State in compelling the immediate fulfilment of the duty. We can find no authority for this position and do not see how the State can take any such action prior to the time fixed by itself for the completion of the work.

These views being decisive of the case, a further discussion of the questions as to the power of the courts to compel the completion of the road by mandamus, etc., is deemed unnecessary. The town took stock to the amount of \$100,000, and paid for it for the purpose of getting a road through the town. It not only has lost its stock but it has for nearly twenty years in vain waited for the road. Nothing before the Board has shown this failure on the part of the road to be other than the result of misfortune and financial inability. The management of the Ulster and Delaware Railroad Company has openly acknowledged that strong obligations rest upon it to build and complete the road. The president in his testimony states that it is not only the intention of the corporation to build the road to its terminus, but that it has taken the preliminary steps and is putting itself in a position to go on with that extension. The Board urges that it make every reasonable effort to do so as speedily as possible. No change in the location of the line can properly be made under section 23 of the general act, nor ought it to be permitted.

By the Board.

WILLIAM C. HUDSON,

Secretary.

Supplementary Report.

September 20, 1885.

In its decision herein the Board stated that "chapter 598 of the Laws of 1875 has extended the time until June 12, 1887." It was intended that this should read as follows: "Chapter 598 of the Laws of 1875, as amended by chapter 350 of the Laws of 1879, has extended the time until June 12, 1887." To the extent of making this correction the Board modifies its decision herein; beyond that it declines to go.

The Board does not in its decision hold that chapter 405 of the Laws of 1882 applies to the case, but simply states that such seems to be its effect. Whether that statute applies or not, need not at present be determined. It will be time enough to decide that question after June 12, 1887, provided the railroad does not in the meantime complete its road.

By the Board.

WILLIAM C. HUDSON,

Secretary.

XXXIV.

CHARLES HAINES v. THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY.

December 30, 1884.

Mr. Haines complained to the Board that he had been overcharged in the matter of transportation of sheep from New York to Bedford station. He had purchased in New York twenty sheep, which by the invoice weighed 1,550 pounds, and he was charged four-and-a-half cents per pound, the bill amounting to \$65.87. The sheep were shipped by way of the New York Central and Hudson River railroad, and the bill for transportation was \$10 at twenty-five cents per hundred weight, the bill assuming the sheep to weigh 4,000 pounds. Mr. Haines called this "a glaring injustice."

The answer of the company was, that the shipment of Mr. Haines was the only shipment of the kind going from New York at that time. They were necessarily loose and required a whole car, it said, and that it was impossible for the company, under the circumstances, to treat the transaction otherwise than as a car-load shipment, and added that this was the uniform custom with all railroads under similar circumstances.

In reply to this, Mr. Haines denied that the company shipped the stock as a car-load, but that on the contrary the sheep were shipped by weight, and he denied that the company charged for a whole car when only a part was taken up with any one shipment, and when the freight was unloaded on the platform or in the yard.

The company, recognizing the justice of this claim, refunded the amount overcharged to Mr. Haines.

XXXV.

AUSTIN CORBIN v. THE NEW YORK CENTRAL AND HUDSON RIVER AND THE NEW YORK, WEST SHORE AND BUFFALO RAILROAD COMPANIES.

January 13, 1885.

In December, 1884, Mr. Corbin called the attention of the Board to the ruinous war of rates then prevailing between the New York Central and Hudson River and the New York, West Shore and Buffalo Railroad Companies, which he said "threatens great injury, if not disaster, to every shareholder and bondholder of both roads, as well as to other creditors of at least one of them, and which tends to demoralize the rates and business of all other roads doing business in the State to the disturbance of business generally, and more or less to inspire a want of confidence in all manner of railroad securities, throughout the whole country, in which a large amount of the capital of the citizens of the State was invested.

"It was obvious that the passenger business of the companies was conducted at rates far below actual cost, and it seemed to him to be

one of the duties devolved upon the Commission to make an effort to protect security holders and other creditors from destruction of their rights, which will stare them in the face if the rate war was allowed to continue for any considerable longer time."

This complaint was transmitted to both the companies complained of, but the Board replied to Mr. Corbin as follows:

"The Board does not deem it its duty to investigate as to the matters alleged in your communication, for the reason that you do not allege yourself to be a shareholder or creditor of either of the two companies referred to; nor do you as president of the Elmira, Cortland and Northern Railroad Company charge any specific act of discrimination against the company, or of any specific act of injury done it."

XXXVI.

IN THE MATTER OF THE COMPLAINT MADE BY THEODORE M. LEONARD OF THE CITY OF NEW YORK, AND THE CITIZENS OF ROUSE'S POINT v. THE DELAWARE AND HUDSON CANAL COMPANY, OGDENSBURGH AND LAKE CHAMPLAIN, CENTRAL VERMONT, AND GRAND TRUNK RAILROADS, IN REGARD TO DEPOT ACCOMMODATIONS.

February 10, 1885.

By Commissioner O'DONNELL:

This is a complaint made by Theodore M. Leonard of the city of New York, owner and holder of village property located at Rouse's Point, Clinton county, N. Y., including that known as the Hotel Windsor. The complaint states that the occupants of property generally, located in said village, and especially of all hotel property, are dependent largely upon the railway facilities furnished by the roads terminating at said village, that the termini and station accommodations of such roads, especially those of the Ogdensburgh and Lake Champlain, the Delaware and Hudson, and the Grand Trunk railroads, by which the bulk of passengers arrive and depart from said village, are wholly inadequate and insufficient to facilitate such traffic, and almost totally deficient in houses, offices, rooms and landing platforms at said stations.

This complaint was supplemented by a petition and complaint from residents of the village of Rouse's Point, substantially to the same effect.

The complaint, under the rule of the Board, was referred to the different railroads complained of; answers were received from the Delaware and Hudson, as follows:

"There should doubtless be a more commodious passenger station, etc., at Rouse's Point than there is at present; the cost of the same should be met by this company and the Grand Trunk and the Ogdensburgh and Lake Champlain railroads, share and share alike, and under such distribution of cost we are ready to provide all suitable facilities for the public at the point named."

The Ogdensburgh and Lake Champlain Railroad Company answers:

"The joint station proposed by the Delaware and Hudson Canal Company would not add to the facilities asked for the citizens of Rouse's Point, and it would only increase the accommodations for the transferring of through passengers from one road to another at the junction of the roads at Rouse's Point, where the Delaware and Hudson crosses the Ogdensburgh and Lake Champlain at right angles, remote

from any highway and not convenient to the hotel or principal residences at Rouse's Point.

"The Ogdensburgh and Lake Champlain railroad have one of the best passenger stations in northern New York at Rouse's Point, which was built at the solicitation of residents, at the point designated by them as most suitable and convenient.

"The building is of brick with two large waiting-rooms, telegraph office, ticket office, express and baggage office, and conductors' room, and no complaint has ever reached us before that our accommodations were not sufficient.

"The Grand Trunk railroad terminates nearly opposite our passenger station, whilst the Delaware and Hudson company's track connects with the Grand Trunk railroad north of our main line at a distance of about 1,500 feet, and about 2,000 feet away from our station.

"Should the Grand Trunk and the Delaware and Hudson desire to have the joint use of our commodious passenger station, we will be very glad to admit them on the most favorable terms, but we don't think that we should be called upon to join in building an additional passenger station at Rouse's Point at the crossing above referred. We already have at that point a commodious platform and passenger waiting-room and baggage-room which we have built at our own expense and which seems to meet all requirements for transferring passengers and baggage from our trains to the Delaware and Hudson and the Grand Trunk railroad trains."

The Central Vermont answers :

"Our road has no legal status in the State of New York — its chartered limits terminate with the boundary line between New York and Vermont. It enters the State of New York with its trains only at the sufferance of the Ogdensburgh and Lake Champlain Railroad Company and delivers its passengers and baggage at the station-house of that company. * * * * If any complaint shall be found to exist, it must find its remedy against the Ogdensburgh and Lake Champlain Railroad Company, as they are the only parties who would have the legal power to supply any deficiency. * * * * An examination of the petition discloses the fact that the complaints are against the station accommodations of the Delaware and Hudson Canal Company, which are entirely separate and apart from the station of the Ogdensburgh and Lake Champlain company, and situated some distance from it and in which neither the Central Vermont nor, I am informed, the Ogdensburgh and Lake Champlain have any interest or control whatever and no right or authority to interfere."

The Grand Trunk answers:

"The Delaware and Hudson Canal Company provide at Rouse's Point, under their agreement, the accommodations, facilities, etc., for the performance of the work in connection with the business of the Grand Trunk Railroad Company."

A public hearing was had at Rouse's Point, December 18, 1884, before Commissioner O'Donnell, at which hearing J. H. Bowron, Joseph Cogan and William Furner appeared for the village, and H. G. Young for the Delaware and Hudson Canal Company. J. H. Bowron appeared as counsel for the village and for Mr. Leonard, of New York city.

It was conceded by Mr. Young, of the Delaware and Hudson Canal Company, that the depot accommodations of their road were insufficient to accommodate the traveling public. A large number of witnesses were examined, the testimony showing, without contradiction, that the depot accommodations were insufficient at the Delaware and Hudson depot and at the junction of the Ogdensburgh and Lake Champlain road with the Delaware and Hudson and Grand Trunk roads, as will appear hereafter, reference being had to the map of that portion of the village. (See map of Rouse's Point, included between State street and the Ogdensburgh and Lake Champlain railroad, and Canada street

and the Delaware and Hudson Canal Company railroad, and for distances given, which accompanies this report.)

The Delaware and Hudson road runs northerly out and through the west end of the village of Rouse's Point, connecting with the Grand Trunk railroad at a junction formed by the Ogdensburgh and Lake Champlain road running westerly through said village for the accommodation of the Central Vermont, to which the Ogdensburgh and Lake Champlain is leased.

Passengers and baggage are transferred from the Delaware and Hudson road to the Ogdensburgh and Lake Champlain and Grand Trunk roads and *vice versa*, at the junction where the only depot accommodations is a building less than twenty feet square, scarcely large enough for baggage and with no sufficient accommodations for passengers.

The Delaware and Hudson depot is situated southerly from the junction about five hundred feet. It is a small dilapidated building, with no sufficient waiting-room, and without closet accommodations for ladies. It is utterly unfit for a passenger depot, as was virtually admitted by Mr. Young, who said his company was only waiting proper co-operation from the other companies to build a union depot at the junction. The Ogdensburgh and Lake Champlain road have a good passenger depot, built of brick, east of the junction about 1,300 feet. This depot was built before the Delaware and Hudson reached Rouse's Point, and its location had no reference with a junction with other roads. Passengers arriving on the Delaware and Hudson and Grand Trunk, to be carried on the Ogdensburgh and Lake Champlain road, are obliged to travel about 1,300 feet to reach this depot in order to buy tickets and care for their baggage. There is a platform or walk only part of the way, and without any cover from the inclemency of the weather, which, in a storm, is a very serious inconvenience to travelers.

Rouse's Point is an important port of entry; goods are constantly shipped and transhipped to and from Canada; the village is very flourishing and deserves good depot accommodations from all the roads. Abundant proof was offered showing that baggage arriving or leaving on the different roads was frequently left in the street for want of a proper place to deposit it; and also that, by reason of the location of the various so-called depots at and near the junction, the street was blockaded unnecessarily to the injury of the public. It is manifest that the proper place for a depot for the Delaware and Hudson, Grand Trunk, and Ogdensburgh and Lake Champlain roads is at or near the junction. While the Board has no power to order the building of a union depot, yet there can be no doubt that such a passenger depot is for the best interests of the public and the roads.

The Board recommends that each of the roads, to-wit: the Delaware and Hudson Canal Company, Ogdensburgh and Lake Champlain and Grand Trunk, proceed either to erect jointly a union passenger depot, or otherwise separate depots at or near said junction to accommodate the traveling public, and that such union depot, or otherwise separate depots be erected by the first day of June next.

By the Board.

WILLIAM C. HUDSON,
Secretary.

Some delay followed in arriving at an agreement between the companies, but this was accomplished at a hearing before the Board on December 15, 1885, and a union depot agreed upon.

XXXVII.

IN THE MATTER OF THE COMPLAINT OF THE COMMISSIONERS OF HIGHWAYS AND THE CITIZENS OF THE TOWN OF SCHAGHTICOKE *v.* THE TROY AND BOSTON RAILROAD COMPANY, ON ACCOUNT OF THE OBSTRUCTION OF THE HIGHWAY BY ENGINES AND CARS IN THE VILLAGE OF MELROSE.

April 14, 1885.

This complaint, signed with sixty-eight names and lodged with the Board November 20, 1884, alleged that the usefulness to the public of two certain highways, used as such for twenty years, was greatly impaired and travel thereon seriously delayed and rendered dangerous where such highways were intersected at grade by the tracks of the railroad, in consequence of the highways being blocked and obstructed by the engines and cars of the railroad company.

The railroad company in its answer by its president, Mr. Daniel Robinson, expressed doubts as to the existence of any real grievance, but informed the Board that he had given orders that "trains must not stop or stand across either highway at that point."

This answer was transmitted to the complainants, but they expressed themselves as dissatisfied and as having no confidence in the promises of the company and alleged a case of obstruction having occurred on the nineteenth day of December, as a reason, among others, for their distrust. The counsel for the petitioners expressed his opinion that the only way to permanently abate the nuisance was to remove the side tracks from the upper crossing and between the highways.

The season being late and the ground frozen, rendering it impracticable to alter the side tracks without great expense, the Board took no further action until the tenth of April, relying upon the assurance of the president that the highway should not be obstructed. On that date an inspection of the premises was made by Commissioner Rogers and a large number of the residents of the neighborhood interviewed. They were angry and unanimous as to the disregard of the highway travelers shown by the employees of the railroad in obstructing the crossing.

The complaints against the lower crossing were not sustained. The *upper* crossing, however, was found to be bad, of the same kind with so many in the State about which so much complaint constantly exists.

This particular grievance could be best redressed by the construction of an undergrade crossing. The lay of the ground presents no serious difficulties in the way of such construction. The railroad should have made it when originally built; but unfortunately it did not adopt this course, and the danger and obstruction has gone on ever since.

Were it not that the Troy and Boston railroad is in such exceedingly poor physical condition, requiring so much money to be expended in

accordance with the recommendations of this Board already made, to bring it to a condition of safety for those traveling on it, the Board would not hesitate to recommend an undergrade crossing at this point. The poverty of the road is such, however, not having earned its fixed charges last year, that the Board hesitates to burden it further at present with an expense not absolutely necessary for safety, if in any other way the danger to the highway traveler can be avoided.

The Board for the present therefore recommends:

1st. That the Troy and Boston road shall not permit trains to remain on the main track or side track so as to obstruct this crossing.

2d. That no engine be allowed to remain nearer than 200 feet of the crossing and no car nearer than thirty feet.

3d. That the Troy and Boston road replank the crossing so as to admit of wagons passing over the rails for the whole width of the highway.

The Board further takes occasion to say that if the obstructions continue and complaints are received to that effect it will be under the necessity of positively recommending an undergrade crossing at this point.

By the Board.

WILLIAM O. HUDSON, *Secretary*.

The result is evidently satisfactory, as the complainants have failed to respond to the letters of inquiry of the Board.

XXXVIII.

THE VILLAGE OF ADAMS v. THE ROME, WATERTOWN AND OGDENSBURGH RAILROAD COMPANY.

May 20, 1885.

This complaint alleged that it was the custom of the Rome, Watertown and Ogdensburgh Railroad Company to run their freight trains across Railroad street, in the village of Adams, and let them stand across the street while waiting for trains to pass and while loading, unloading and shifting freight, to the obstruction of all travel at frequent and long intervals.

When the complaint was transmitted to the company it replied that the general manager had given imperative orders that, under no circumstances, must a train be allowed to stand on the crossing, or cars left to lay over on to the street.

This closed the case.

XXXIX.

STANLEY W. DEXTER v. NEW YORK, LAKE ERIE AND WESTERN RAILWAY COMPANY.

June 27, 1885.

This complaint alleged "great and unnecessary delays" occurring in the treasurer's office of the New York, Lake Erie and Western Railway Company, in this city, in the payment of coupons presented.

It further alleged that the complainant had frequently to wait half an hour after the coupons had been presented before the check was ready, and that so notorious was the delay in this office that the complainant left the coupons and called the following day for the check.

The reply was that the company did not admit the jurisdiction of the Board in this matter; that it was well known in business circles that persons demanding the payment of coupons in the various railroad companies, or at the banks, must take their turn in presenting them in regular order and are paid accordingly; under those circumstances the coupon holder, it was thought, might consider himself very fortunate if he received his money within thirty minutes after taking his place in line.

The reply further averred that the mode of paying coupons in the office of the treasurer of the company was as prompt and efficient as that of any bank or railroad office in New York.

The complainant closed the case by replying that the delays experienced were not caused by the number of persons demanding payment of coupons. "On the last occasion," he continued, "that I was there, there were not more than six persons waiting, and I experienced no delay whatever in *presenting* my coupons and having them counted and canceled. The delay to which I refer occurs *after the coupons are presented*, and is occasioned by delay in obtaining the signature of the proper disbursing agent of the company to the check; applicants for payment of coupons are obliged to wait the convenience, and sometimes the return, of the treasurer before they are paid. In many other offices and banks, coupons are paid on presentation by the canceling clerk, or, if the treasurer is absent, checks are signed in blank and can be quickly filled in. I was in hopes a suggestion from the Board would suffice to induce this company to reform its present coupon system. If not, I am afraid I shall have to submit, as heretofore, to the delays as a necessary annoyance, and in the words of the president, 'consider myself fortunate' if I receive my money at all."

XL.

J. N. F. HAZEN v. LONG ISLAND RAILROAD COMPANY.

July 15, 1885.

This was a complaint of the unsafe condition of a bridge crossing the creek on the Main street branch of the Long Island railroad at Flushing.

The reply of the company was that the bridge in question was not unsafe; that it was a drawbridge built upon pile foundations in mud bottom; that the center pier had settled somewhat thus throwing it out of line; that careful examination made previous to the complaint had suggested the renewal of some of the old piling, and that the work of renewals has been since in progress and would in due course of time be completed.

This answer was transmitted to the complainant, and as he made no reply, though requested so to do, it is presumed that the answer of the company was accepted as satisfactory.

XLI.

COMMISSIONERS OF HIGHWAY OF THE TOWN OF BETHLEHEM v. THE NEW YORK, WEST SHORE AND BUFFALO RAILWAY COMPANY.

July 17, 1885.

These commissioners complained that the New York, West Shore and Buffalo Railway Company had taken possession of the road commonly known as a part of the Albany and Greene Turnpike, and of a part of a road running from the turnpike to a dock at the west branch of the Hudson river, thereby cutting off communication with the river dock for teams. This was taken, the complaint alleged, with the understanding and agreement that the company would purchase lands and build and construct a new road leading from the said dock to another road which was to be finished and completed by said company. This agreement has never been carried out, and the commissioners petition for redress.

Upon the complaint being transferred to the receivers of the company, the reply was that while the company might have a legal defense to the requirements of the highway commissioners, the claim made for the extension of the road from their trestle to the new highway as constructed, was a just one. The hope was expressed in the reply that it would be possible for the receivers to extend the road to the satisfaction of the present highway commissioners at an early day. A controversy was declined and the receivers expressed their willingness and readiness to do what was required of them whenever their financial condition would permit.

The Board, therefore, recommended "that the company proceed to acquire the necessary land and construct the road in accordance with the understanding and agreement made between the railroad and the town."

At this date, however, the recommendations have not yet been complied with.

XLII.

WILLIAM ABBOTT v. THE ELMIRA, CORTLAND AND NORTHERN RAILROAD COMPANY.

July 25, 1885.

Mr. Abbott complained of the condition of the high trestle on the Elmira, Cortland and Northern railroad near Brookton, believing it to be weak and in a dangerous condition. The attention of the company was immediately called to the complaint, and the Board at once caused an official inspection to be made. The report was as follows:

"There are 120 bents, 15 feet c. to c. of caps, and averages 70 feet high. There are corbels between caps and stringers. Stringers are in threes 7 by 14 inches. Pennsylvania standard gives 18 to 1 inch span for 43 by 14 inch section. With

oarbels this trestle does not exceed 18 feet 1 inch span. There are some old timbers, not however dangerously old, and a small gang of carpenters are constantly engaged in renewals and in watching for indications of failure. During the past two years 200,000 F. B. M. new timbers have been used. Trains cross at low rate of speed."

Mr. Abbott was informed that after an inspection the Board did not consider the trestle to be in a dangerous condition.

XLIII.

J. OPPENHEIMER v. THE LONG ISLAND RAILROAD COMPANY.

August 5, 1885.

Mr. Oppenheimer made complaint (subsequently enforced by a petition of residents of College Point), that at the College Point depot on the Long Island railroad, there were not proper water-closet facilities for men and women, and that such as there were, had been closed by order of the company.

The reply of the company was, that the closets had never been closed except for such repairs as were made necessary by the carelessness of the people using them. There was a wide difference of opinion as to the condition of these facilities and the extent of them, between the officials of the road and the citizens of College Point. The Board, however, made the following

RECOMMENDATION :

The Board is forced to the conclusion from the highly respectable names attached to the complaint, that suitable accommodations are not provided at College Point for either sex. The Board, therefore, recommends that the Long Island Railroad Company proceed at once to erect and maintain such water-closets or privies as are necessary, one for men and one for women; that they be kept open, and that signs be placed to indicate their whereabouts without delay, and that the Board be informed upon completion.

The complainant informs the Board that the recommendations have been complied with.

XLIV.

IN THE MATTER OF THE PETITION OF JOHN D. WING, THOMAS MINFORD AND OTHERS v. THE NEWBURGH, DUTCHESS AND CONNECTICUT RAILROAD COMPANY.

September 15, 1885.

By Commissioner ROGERS :

This petition, signed by seventy-four names, "being those of residents of the county of Dutchess, now doing business in the city of New York, and others," alleges as follows :

"First. That they pass over the Newburgh, Dutchess and Connecticut railroad, having a terminus at Dutchess Junction, on the line of the New York Central and Hudson River railroad in Dutchess county, State of New York, many times, during each year, to and from their respective residences in Dutchess county to their respective places of business in the city of New York and elsewhere.

"Second. That the above-mentioned Newburgh, Dutchess and Connecticut railroad, having a terminus at Dutchess Junction, as aforesaid, operates a passenger train running over the said road from a station called Millerton to the above-mentioned terminus — Dutchess Junction — on the line of the New York Central and Hudson River railroad.

"Third. That the said passenger train, before mentioned, leaves the Millerton station on the said Newburgh, Dutchess and Connecticut railroad at 6:10 o'clock, A. M., and is due to arrive at Dutchess Junction to connect with trains for New York city and Poughkeepsie, on the New York Central and Hudson River railroad, at 8:50 o'clock, A. M.

"Fourth. That the New York Central and Hudson River railroad operates and runs a 'local' passenger train between Albany and New York, leaving Albany at 5:50 o'clock, A. M., arriving at Dutchess Junction at 9:05 A. M., and due to arrive at Grand Central depot, New York city, at 11 o'clock, A. M.

"Fifth. That the said New York Central and Hudson River railroad also operates and runs a 'fast' or 'special' express between Buffalo and the city of New York, which special express, if on time, leaves Poughkeepsie five minutes in advance of the said local passenger train on the New York Central and Hudson River railroad, which is due to arrive at Dutchess Junction at 9:05 A. M., as aforesaid.

"Sixth. That if said special express, due at Poughkeepsie at 8:20 A. M., is not less than twenty-five minutes behind schedule time, it is customary for the said local passenger train to run (on special orders) ahead of the said special express to a siding or switch at or near the station called Cold Spring, and occasionally at or near a station called Montrose, to allow the said special express to pass it, the said local, at that place, if the said special express is following the said local at a distance of thirty minutes behind the time the said local leaves Poughkeepsie.

"Seventh. That many times during the year the said special express is behind her prompt schedule time to arrive at Poughkeepsie, as aforesaid, and the said local has many times and does leave Poughkeepsie (on special orders) ahead of the special express and run to the said siding or switch, before mentioned, and there 'switch' and allow the said special express to pass, if following the local as aforesaid.

"Eighth. That in the event of the local passenger train on the New York Central and Hudson River railroad running ahead of the said special express on said road, and the passenger train on the before mentioned Newburgh, Dutchess and Connecticut railroad being behind the fraction of a minute of the prompt schedule time of the New York Central and Hudson River local, to arrive at Dutchess Junction, the said local could not wait for the passenger train on the said Newburgh, Dutchess and Connecticut railroad, for the local has to reach a given point and 'side track' near Cold Spring or Montrose (before mentioned) at a certain time and wait at that place upon the said side track to allow the special express following as aforesaid to pass, which said special express is due in New York city first.

"Ninth. That frequently, during the present year and the year last past, the passenger train on the Newburgh, Dutchess and Connecticut railroad has arrived at Dutchess Junction behind the schedule time of the local train on the New York Central and Hudson River railroad.

"Tenth. That in consequence of the said passenger train operated by the Newburgh, Dutchess and Connecticut railroad not arriving at Dutchess Junction before or at the time of the arrival of the local on the New York Central and Hudson River railroad, the passengers for New York city arriving at Dutchess Junction on the passenger train operated by the Newburgh, Dutchess and Connecticut railroad have no other alternative than to return home or walk up on the track of the New York Central and Hudson River railroad to the station known as Fishkill on said road, and there wait for a train that will carry them to New York city, as there are no trains run over and by the New York Central and Hudson River railroad which stop at Dutchess Junction after the before mentioned local until late in the afternoon.

"Eleventh. That the station called Dutchess Junction is distant from the station at Fishkill over one mile; that there are no accommodations of any kind whatsoever either for eating or sleeping at Dutchess Junction, there not being even a

water holder whereby passengers at that station may get a drink of water. There is not any way of reaching said station at Dutchess Junction or leaving the same, by wagon road, by boat or by any other means except the railroads before mentioned; that the station at Dutchess Junction is a miserable affair, made from rough boards and not even lathed and plastered on the inside, nor ceiled in any manner. That the only dwellings near Dutchess Junction are those occupied by laborers in the brickyards thereabouts, and the said dwellings are all more than a quarter of a mile away from said station.

"*Twelfth.* That there is a station at Wicopee on the line of said Newburgh, Dutchess and Connecticut railroad about one mile from Dutchess Junction, where the track of the New York and New England railroad forms a junction and connects with the Newburgh, Dutchess and Connecticut railroad tracks; that the two railroads above mentioned have in full use and operation at Wicopee all the necessary frogs, switches and appurtenances used for changing and switching cars from one track to another; that the New York and New England railroad leases the right from the Newburgh, Dutchess and Connecticut railroad to run its trains from said station called Wicopee over the tracks of the said Newburgh, Dutchess and Connecticut railroad to a station called Hopewell Junction, on the line of the Newburgh, Dutchess and Connecticut railroad, and pays the said road for the same at the rate of fifty cents per car, or about \$1,000 per month.

"*Thirteenth.* That the tracks of the said New York and New England railroad run to, and the said New York and New England railroad has a terminus and depot at Fishkill, said depot being about three hundred feet distant from the depot of the New York Central and Hudson River railroad depot at Fishkill.

"*Fourteenth.* That there are ample facilities for the transportation of baggage and passengers from the depot of the New York and New England railroad to the depot of the New York Central and Hudson River railroad at Fishkill.

"*Fifteenth.* That, in the event of delay arising from any cause, if passengers on trains operated by the Newburgh, Dutchess and Connecticut railroad were landed at Fishkill, ample accommodations of every kind could readily be obtained at any of the hotels at that place.

"*Sixteenth.* That the passenger trains before mentioned operated by and over the said Newburgh, Dutchess and Connecticut railroad can easily be run from said station called Wicopee to the terminus of the New York and New England railroad (over the tracks of the said New York and New England railroad) at Fishkill, at a smaller expense and less liability to accident (the grade being less), and to the great accommodation of its passengers doing business in New York city, as well also those wishing to go to the cities of Newburgh and Poughkeepsie.

"WHEREFORE, in view of the above facts, the petitioners hereto earnestly request this honorable Board of Railroad Commissioners of the State of New York, to direct and order the said Newburgh, Dutchess and Connecticut railroad to run their passenger train due at Dutchess Junction aforesaid at 8:50 A. M., over the track of the New York and New England railroad, from Wicopee to the station at Fishkill, for the better accommodation of its passengers, or that this honorable Board take such further action or make further orders in the premises as to them may seem just and proper."

The answer of the railroad company is as follows :

"*First.* That while it is, and has always been, willing to conform to the suggestions or directions of your honorable Board in respect to the management of its road, so far as it is within its legal or financial ability so to do, and has always endeavored to pay a due regard to the interests of the public and the patrons of its road in combining safety and accommodation in the transport of its passengers and freight, it protests : first, that were the statements in said petition conceded to be in all things correct, the relief asked, in so far as it involves a radical change of terminus of its road different from that now existing and specified in its articles of association, is not within the province of your honorable Board to direct, is not within the objects contemplated by the Legislature in the creation of your Board, and could not be made, if desired by this company, without the direct authorization of the Legislature, and the making of which, without such authority, would subject the company, on the complaint of any person, to a *mandamus*, to restore such terminus and the running of its trains upon such discarded portion of its road; second, that were the relief demanded practicable, it could not be granted by your Board, or a proper consideration of the subject had with-

out first making the New York and New England Railroad Company a party hereto.

"*Second.* But, while so protesting, this company answers the petition as to its statements of fact. That the statements in the first, second, third, fourth, fifth, sixth, seventh and eighth specifications thereof are, in the main, correct, except in so far as the statement as to the passenger trains of its road mentioned in the second specification is qualified in the ninth specification of its answer hereto.

"*Third.* That as to the ninth specification thereof it says: That for the two years ending 30th of April, 1885, its trains have missed the connection with the New York Central local train, referred to in the petition, at Dutchess Junction but three times: once on 20th October, 1883, caused by the collision of freight trains and consequent blocking of the track at Glenham; once on 11th February, 1885, caused by the track being so covered with ice and snow that it was impossible to make its regular time; and once on the 17th February, 1885, when a heavy snow so blocked its road that its trains did not reach Pine Plains, the first fourteen miles from Millerton, till afternoon. And it submits that this is a showing as to connections equal or superior to that of any railroad operated in this State, and better than could reasonably be required or expected of any road.

"*Fourth.* As to the tenth specification it says: That its schedule time of arrival at Dutchess Junction is, as stated, 8:50 A. M.; that the schedule time of the down or southern-bound train of the New York Central is 9:01 A. M., thus allowing eleven minutes margin; that the schedule time of the up or northern-bound train of the New York Central, *stopping at Dutchess Junction* and Fishkill, is 9:18 A. M., at the junction, a margin of twenty-eight minutes; upon which, last-named train (if a connection with the down train is missed) passengers can go up to Fishkill, the place they desire in said petition to be landed at.

"That the Newburgh, Dutchess and Connecticut trains leave Dutchess Junction on the arrival of the up or north-bound train on the New York Central. That it is a standing order to conductors on its road that, in case of missing connection with the up or northern-bound train on the New York Central, passengers be returned home free, or at their option to Matteawan, a station on its road one and eighty-one one-hundredths miles from the Junction, and about one and one-half miles from said Fishkill depot on the New York Central; from which place, Matteawan, a line of stages run from the depot half hourly to the Fishkill depot, on the New York Central, meeting all trains of the latter road stopping at such depot. At Matteawan are several hotels and ample accommodations of every kind for all passengers going over our road.

"*Fifth.* As to the eleventh specification it says: It admits that the depot at Dutchess Junction is not what it should be for passengers. In 1871 a fine and ample iron-sheathed depot building was erected, owned and occupied jointly by this company and the New York Central and Hudson River Railroad Company. This depot was burned April 19, 1876, and this company erected the present temporary building at its own expense. The New York Central owns the grounds upon which it stands, and this company has repeatedly offered to join with the New York Central in erecting a suitable depot, and is still willing to do so, but the latter company has so far declined so to do.

"That the statement that no water is kept there is not true. Drinking water is constantly there, and in summer ice water. Several parties have successively opened lunch counters, but have been compelled to give them up for want of patronage.

"*Sixth.* As to the twelfth specification it says: That the facts stated are in the main true.

"*Seventh.* As to the thirteenth specification it says: That the distance there given from the New England depot at Fishkill to that of the New York Central is not correct. The correct measured distance is five hundred and twenty feet, and from where the one train discharges its passengers to where the other train receives them is six hundred and seventy feet.

"*Eighth.* As to the fourteenth specification it says: That there are no facilities whatever provided for the transportation of passengers and baggage from the one depot to the other at Fishkill. The passengers are compelled to attend to that themselves as best they can. A highway intervenes between the two depots, which is often muddy, often dusty, and the travel of more than one-eighth of a mile very disagreeable in consequence, and which would be a cause of much complaint were the petitioners landed there as desired.

"*Ninth.* As to the sixteenth specification: The distance from Wicopee to Fishkill station is one and eighty one-hundredths miles, while from Wicopee to Dutchess Junction depot it is ninety-six one-hundredths miles. That the business of our road is not sufficient to permit its running trains solely as passenger trains, but that from necessity they have to be mixed trains. That the entire passenger earnings for passengers going to or from the New York Central road were for the last fiscal year but \$6,102.50. That were the objects desired by the petitioners carried into effect, the terminus at Dutchess Junction would still have to be retained as a freight terminus, all the plant and terminal facilities for transportation of freight from the river, or from and to the New York Central railroad, being located there.

"That the road is dependent chiefly upon freight for its earnings, and that said freight business could not be carried on at Fishkill, the necessary facilities for it not now existing there and could only be created at great expense.

"The experience and knowledge of your Honorable Board is sufficient to suggest to you the very great expense involved in a change of this freight terminus, were it practicable so to do.

"That the consequent maintaining of two points of termini as asked by petition would necessarily involve, in addition to the rental, if a lease could be had, a breakage of the train (being a mixed one) at Wicopee, the keeping a special engine and crew at that station to take the cars back and forth to and from Fishkill and the extra expense of a ticket agent and baggageman at Fishkill depot, with the cost of baggage transfer between depots over one-eighth of a mile.

"*Tenth.* The company refers your Board to its last Annual Report found in volume 2, page 456 of the printed report of your Board, as to its financial standing. And to volume 1, page 287, as to the condition of its road-bed upon inspection by your Board; showing the desire of the company to fulfil all its duties to the public and secure safety for its passengers by the thorough repairs constantly made to its road-bed and superstructure and its general condition of excellence, with the result of a deficit for the year of over \$10,000, and submit that were it within the jurisdiction of your Board to make the change of termini asked, no practical benefit would result to passengers desiring to go to points on the New York Central; that no greater degree of certainty in connections is practically attainable than now exists (the uncertainty of which, as we understand from the petition, forms the basis upon which the change is asked). That as a local road running from the Harlem to the New York Central, with no net income whatever, it furnishes to the public all the facilities, convenience and safety which could reasonably be asked from any road.

"That it has not the financial ability, and its earnings and business do not justify the change asked for, even did the facts exist rendering such change reasonable, and that the necessarily very heavy expense which such change would entail upon the company would be entirely disproportionate to any possible benefits, real or conjectural, which could ensue to the petitioners or the public generally."

On the 14th July an inspection of the terminus of the New York and New England railroad at Fishkill, and of the Newburgh, Dutchess and Connecticut railroad at Dutchess Junction was made by Commissioners Kernan and Rogers, and a hearing given to the petitioners and the Newburgh, Dutchess and Connecticut Railroad Company. The former were represented by their counsel, Messrs. Anthony, White and Weed; the railroad by its counsel, W. S. Eno, Esq., and its superintendent, Chas. L. Kimball, Esq.

A rejoinder to the answer of the railroad company has been filed with the Board; and also elaborate briefs both by the counsel for the petitioners and for the railroad.

Two questions arise in the determination of this case:

First. As to the power of the Board to make a recommendation to compel the Newburgh, Dutchess and Connecticut railroad to change its terminus and to run its trains for one mile and eight-tenths over the tracks of the New York and New England railroad, and

Second. As to the reasonableness and expediency of such recommendation upon the merits of the case.

With regard to the first question it is argued by the counsel for the petitioners in an elaborate brief submitted that the Board has such power delegated to it by section 6 of the act of its creation (chap. 353 Laws of 1882) which reads as follows: "Whenever in the judgment of the said Board of Railroad Commissioners, after a careful personal examination of the same, it shall appear that repairs are necessary upon any railroad within this State, or that any addition to the rolling stock, or any addition to or change of the stations or station houses, or that *additional terminal facilities* shall be afforded * * * or that any change in the mode of operating the road and conducting its business is reasonable and expedient in order to promote the security, etc., * * * said Board shall give notice and information in writing to the corporation, etc."

This claim as to the power of the Board, or even of the Legislature, is resisted by the counsel for the railroad company.

Inasmuch as the Board proposes to decide the case upon its merits, it does not deem it necessary to enter into an argument or give an opinion as to its own view of its powers, further than to remind the counsel for the petitioners that if the relief asked for were wholly granted, it would compel the Newburgh, Dutchess and Connecticut railroad to furnish not "*additional terminal facilities*," but an *entirely different terminus*, and that upon the property of another railroad.

Second. With regard to the merits of the case.

The principal *gravamen* of the complaint is contained in the 9th and 10th specifications, to-wit:

"That frequently during the present year and the year last past, the passenger train on the Newburgh, Dutchess and Connecticut railroad has arrived at Dutchess Junction behind the schedule time of the 'local' train on the New York Central and Hudson River Railroad," that in consequence of such failure to connect the passengers for New York city have had to return home or "walk upon the track of the New York Central and Hudson River railroad to the station at Fishkill," there being no trains stopping at Dutchess Junction on the New York Central and Hudson River railroad after the above-mentioned "local" until late in the afternoon.

In answer to this the superintendent of the Newburgh, Dutchess and Connecticut railroad testifies under oath "That for the two years ending 30th April, 1885, its trains have missed the connection with the New York Central and Hudson River local train referred to in the petition at Dutchess Junction *but three times*. Once on the 20th October, 1883, caused by the collision of freight trains and consequent blocking of the track at Glenham. Once on 11th February, 1885, caused by the track being so covered with snow and ice that it was impossible to make its regular time, and once on the 17th February, 1885, when a heavy snow so blocked its road that its trains did not reach Pine Plains, the first fourteen miles from Millerton, till afternoon."

The counsel for the petitioners were given opportunity to disprove this statement, but have not done so, and the Board therefore presumes are unable to do so.

The road claims with justice that "this is a showing as to connections equal or superior to that of any railroad operated in this State," and, it is but proper to say, deprives the complaint of a great portion of its weight.

It further appears that in case the connection is missed the Newburgh, Dutchess and Connecticut road takes proper measures to convey the passengers home free of charge, or to Matteawan, whence a line of stages runs half hourly to the Fishkill depot on the Hudson River railroad, a distance of a mile and one-half.

An investigation of the financial condition of the Newburgh, Dutchess and Connecticut railroad shows the result of the business of the year ending September 30, 1884, to have been as follows :

Total earnings.....	\$177,383 18
Charges against earnings:	
Transportation expenses.....	\$176,361 26
Interest.....	11,610 00
	187,971 26
Resulting deficiency for the year.....	\$10,588 08

Should the road be obliged to run its morning train to Fishkill it would be put to *very material* increased expense, estimated in detail under oath by the superintendent at \$4,004.25, *in addition* to the rental that would be charged by the New York and New England road, whatever that might be.

The superintendent also testifies under oath that the *entire* passenger earnings on all its trains from passengers going to and from the New York Central and Hudson River railroad were for the last fiscal year but \$6,102.50.

There is nothing to show and no reason to believe that running the trains to Fishkill would increase the passenger business.

In the opinion of the Board, therefore, it would not be just or expedient to subject the railroad to this increased expense which it is utterly unable to bear.

It must not be lost sight of that, under the terms of its charter and the obligation of the general railroad act, the railroad must continue to run to Dutchess Junction whether it should run some trains to Fishkill or not.

The Board has no doubt that the courts by mandamus could and probably would compel such service.

There are various other material objections to compelling the Newburgh, Dutchess and Connecticut train to run to Fishkill which have been presented to the Board in great detail and which will be briefly alluded to.

First. The New York and New England railroad is now in the hands of a receiver who takes the ground that the lease or agreement between the two railroads is no more binding upon him "as receiver of that corporation than upon the trustees of either mortgage," and, acting upon this view, declines to pay certain sums due the Newburgh, Dutchess and Connecticut road under the contract. Until this matter is adjudicated, therefore, it would be impossible for the Newburgh, Dutchess and Connecticut to secure the right of running its trains over the New England road under the terms of the agreement. These

terms are in brief, that the compensation to be paid by the Newburgh road to the New England road shall be determined by arbitration in case the Newburgh, Dutchess and Connecticut should elect to run its trains to Fishkill.

Second. "The additional outlay which would be imposed upon the Newburgh, Dutchess and Connecticut would necessarily be at the expense of the rest of the road and might leave insufficient means at its disposal to keep its property in safe condition, for the reason that the safety of its trains and passengers require the expenditure of and absorb all its receipts (substantially) over actual running expenses."

Third. The New England road is a through line with many trains and a single track. From necessity the Newburgh, Dutchess and Connecticut train would not be allowed to stand upon the main track at the depot during the interval between its arrival and departure.

There would thus be required probably another switch and side track and the services of a switchman.

There would also have to be a station agent and assistant at the depot to attend to the tickets and the transfer of baggage between the depots of the New England road and the Hudson River road, these being 520 feet apart.

Fourth. The fuel, supplies, extra engines, machine-shops, master mechanic and workmen are at the present terminus, Dutchess Junction. There the rolling stock is examined as the trains come in. There would have to be kept an extra force of workmen at Fishkill did a train run there, or the train would have to be run out and brought to Dutchess Junction, involving much inconvenience and derangement of business.

Fifth. The superintendent of the road also states under oath that the morning train is the mail train with terminal post-office at Dutchess Junction, being post-office route 6,085, and the counsel informs the Board that the train could not be withdrawn without the consent of the post-office department, and that such withdrawal would probably work a discontinuance of the office, as the New York Central and Hudson River railroad would have no object in stopping its train there if the train on the Newburgh, Dutchess and Connecticut no longer stopped.

Sixth. The counsel calls attention to the likelihood of there being much annoyance to, and failure to catch trains upon the part of strangers, from the fact that some trains would leave from Fishkill and others from Dutchess Junction.

Seventh. The Board does not deem it a very material question whether the morning train is a mixed passenger and freight train or not; but it appears from the affidavit of the superintendent, that, while the morning train into Dutchess Junction seldom has freight cars attached the one out of Dutchess Junction very frequently has. In the twelve months ending April 30, 1885, it had freight cars attached ninety-nine times.

The affidavits of the petitioners only refer to west-bound trains.

For the above reasons the Board would not feel justified in recommending that the morning train on the Newburgh, Dutchess and Connecticut railroad should be run into Fishkill, whether it has the power to make such recommendation or not.

The complaint of the petitioners with regard to the station-house at Dutchess Junction, however, is well founded. The building is inexcusably bad.

A new station-house should be built without any delay. The Board has already made this recommendation as a result of its official inspection (see page 268, Vol. I of second annual report), and here repeats it with greater emphasis.

RECOMMENDATIONS.

The Board recommends that a new and suitable station-house be erected at Dutchess Junction to accommodate the travel between the Newburgh,* Dutchess and Connecticut railroad and the New York Central and Hudson River railroad; that the expense be borne jointly by the two above named corporations in proportions to be agreed upon between them.

Should they not agree within thirty days from date the Board will, after due notice to each corporation and a hearing, should they desire it, take further action herein.

By the Board.

WILLIAM C. HUDSON, *Secretary*.

This matter is still pending before the Board.

XLV.

CORNING GLASS WORKS v. THE FALL BROOK COAL COMPANY.

September 15, 1885.

The Corning Glass Works is a manufacturing establishment situated in Corning, between the track yard of the Corning, Cowanesque and Antrim railroad, operated by the defendant, and the Chemung river. A switch partly upon complainant's land connects with the railroad, whose tracks cross the tracks of the New York, Lake Erie and Western railroad about a half a mile west of the works. The works are so situated as to be inaccessible by rail to the New York, Lake Erie and Western road, or the Delaware, Lackawanna and Western, except through the yard of the Corning, Cowanesque and Antrim road, and thence by the said switch into the works.

About 1868 the glass works were built and are a substantial and expensive plant.

The switch was constructed and has been maintained by the complainant, the railroad company furnishing the rails.

According to the only positive evidence as to the understanding or agreement made at the time of the construction of the switch, it was to be used in transporting to the works the coal of the Fall Brook Coal Company, over the lines controlled by it. From its subsequent use it may be fairly inferred, that it was incidentally designed to be used for the other freighting business of the complainant in bulk, whether passing over the lines operated by the defendant, or whether over the Erie and its connections to the junction point between the Erie and Corning, Cowanesque and Antrim road. From 1868, until January,

1884, all coal for the works was purchased from the Fall Brook Coal Company, and delivered upon the switch. Other freight in bulk was likewise delivered on the switch as desired. If brought to Corning by the Erie and its connections, it was taken at the junction by the defendant, and hauled through its yard and on to the switch at the works for a uniform switching charge of \$2 per car. During this same period the switch was considerably used by the railroad as part of its yard trackage for storing cars.

Other manufacturers and merchants in Corning have similar private switches, and it has been and is the practice of the defendant to transport cars for them as requested, between the Erie junction and such switches for a like charge.

Since January, 1884, the glass works, instead of purchasing Fall Brook Company coal, has purchased coal from other parties, who ship it to the glass works at Corning over the Erie system.

The refusal of the defendant to switch cars, whether loaded with coal, or with other merchandise, from the Erie junction, through its yard to and on to the complainant's switch, and the removal of the frog at the point of connection, constitute the gravamen of the complaint.

The position of the defendant is briefly stated in the answer as follows:

"First. The switch referred to by the glass company is no part of the line operated by this company.

"Second. That switch was constructed for a specific purpose, namely, to facilitate the delivery of the coal mined and sold by this company to the glass works, and as we have no further use for it it has been abandoned. Furthermore, when this switch was constructed, this company had a substantial interest in the works in the form of stock which had been paid for in full. The works became insolvent and our interest was wiped out by judicial sale; we now have no interest whatever in the concern which will justify the maintenance of the switch for their use and convenience.

"Third. The coal which the glass works now desire us to switch for them is not freight moved by us as common carriers; our line is no part of the route or line of transportation over which this coal is consigned and we have no arrangement or rates for transporting the same. If it were moved over any portion of our line we would be willing to deliver it to them at the usual place in Corning for the delivery of freights to consignee. More than that, we are ready and willing to deliver freight of any kind to them and switch the cars to any point in our yard that is most convenient for them, but we are not willing to provide a special switch for their sole convenience without corresponding benefit to ourselves."

The defendant, as lessee of the Corning, Cowanesque and Antrim railroad, is a common carrier, and as such is bound to perform for the public at reasonable rates, and without unjust discrimination, certain well-known duties in receiving, transporting and delivering all freight offered to it.

Under subdivision 6 of section 28 of the General Railroad Act, the defendant is further required to receive and forward all freight intended for points on its road, from any other railroads which

it may cross, intersect or join. It is not claimed that the switch of the complainant is a "point" upon defendant's line within the statute, for the general receipt or delivery of freight. Such a "point" under the statute would be its freight-house at Corning, or such point in its yard as it has designated and used for these purposes. But it is contended by the complainant that the defendant has, upon the facts, by a long course of practice, fixed and recognized the switch in question to be a "point upon its road," within the meaning of the statute as between itself and the complainant; that having thereby induced the establishment and development of a large manufacturing business, the defendant is not at liberty arbitrarily, or for such reasons as it offers, to refuse to continue its accustomed service at the switch.

The difficulty with this theory of the complainant is, that the service now desired is not the service which was for so many years rendered. A refusal by the defendant to continue the delivery of its own coal, and incidentally of miscellaneous freight, would violate the agreement which preceded the construction of the switch, and would ignore the practice of seventeen years. The refusal to switch from the Erie junction, and deliver the coal of competing lines upon the switch, is, however, simply a refusal to do what it never has done. It is not a denial of its duty, growing out of the custom, to continue delivering thereon its own coal, but it is a refusal to extend the practice so as to cover other than its own coal. Whether for valid reasons or not, it is clear that the defendant never intended voluntarily to provide the use of this switch for the delivery thereon by it of the coal of competitors of the Fall Brook Coal Company. No such understanding existed when the switch was put in, and no such use of the switch has been practiced or consented to. The few deliveries so made were the result of oversight, as defendant claims, and as we may well believe from its conduct. Now custom is law, founded upon *consent* and is evidenced by long practice. Bearing in mind that the thing to be done by virtue of a custom which has become a law, is only that which has been done and consented to within the contemplation and practice of the parties, the Board cannot but conclude that, so far as custom has established any rule in reference to this switch between these parties, it has not created or imposed any duty upon defendant of hauling from the junction, and delivering upon the switch the coal cars of competing roads. The switching and delivery of cars of miscellaneous freight upon the switch during all of the years that coal was delivered, constituted a custom upon which complainant would equitably have a right to rely and insist, in view of the outlay in a plant and a business thereby induced, were it not that this use was clearly incidental and subordinate in the minds of the parties to the coal business. The main object for which the switch was constructed and used being abandoned, we do not think that the continued maintenance and use of the switch for subordinate purposes can be insisted upon. We cannot extend the custom beyond the intention of the parties. What the defendant intended and practiced was, to do the switching to this switch of miscellaneous freight in consideration of, and as an appurtenant to the coal business of the Fall Brook Coal Company. The coal business being withdrawn the force of the custom is at an end as to every thing incidentally connected therewith.

The use by the company of the switch as storage yard for cars has no bearing upon this aspect of the case. This fact is urged, as showing that defendant treated the switch as part of its yard. That it was so considered for the storage of cars may be conceded, without any such result following, as that, therefore, defendant owed to the complainant the duty of delivering thereon freight. We do not understand that a carrier is bound to deliver freight at that part of its yard most convenient to an individual shipper. So far as it conveniently can, a carrier ought to do so, and with manufacturing and other large concerns the practice is increasing for the mutual benefit of the shipper and the carrier. The legal duty of the carrier, however, is to provide a proper place for unloading and taking away freight. Under this rule much discretion remains with the carrier as to where the place, in or about its yard, shall be, and a shipper cannot insist upon delivery at just that place in the yard which is most convenient for him.

There is another aspect of this case, however, in which we believe that the defendant will, upon more mature consideration, see that it is practicing an unjust discrimination against the complainant in the course which it is pursuing.

As has been stated the defendant, as lessee of the Corning, Cowan-esque and Antrim railroad, has permitted several similar private switches to be put in for the convenience of shippers in and about its yard, and it makes a practice of switching cars thereon from the Erie junction through its yard, precisely as is desired by the glass works. Its uniform charge for such service is \$2 per car.

The law does not require a railroad to furnish private switches to any one. Whether it furnishes any or not is for the railroad to determine. If, however, in the exercise of its discretion in the matter, a railroad determines upon adopting the policy of furnishing private switches, and of affording facilities for their use, it is quite obvious that the rules of law governing carriers apply thereto. These facilities, if granted at all, cannot be allowed to favored shippers only, and refused to others having substantially the same claim thereto, nor can they be used as weapons of punishment or coercion. Whatever a railroad does, whether under legal compulsion, or as a matter of choice and accommodation, must be done for all alike under like circumstances for reasonable compensation, and without unjust discrimination. This rule cannot be questioned. It leads to no such absurd conclusion as that every one would be entitled to a private switch, and that thus utter confusion in their business and serious loss to railroads would result. It is for the railroad to determine to what extent private switches shall be allowed, subject, as in every thing else relating to its operation, to the restriction that its charge for service connected therewith shall be reasonable, and that it shall not unjustly discriminate in determining who shall and who shall not have switches.

The Corning Glass Works would seem to fairly come within the class to which private switches are allowed by the defendant.

The defendant presents statements showing that the parties having the principal switches at Corning, receive and ship more freight over the defendant's lines than does the glass works. Because of the larger receipts from such parties, the road, it is said, can afford to render the switching service at a figure which, considered by itself, is inadequate.

The precise quantity of freight to be handled does not determine the question of whether shippers are substantially alike. A manufacturing company employing about 125 hands and furnishing employment to as many more skilled mechanics in Corning, which is a regular shipper by car-load, and in lesser quantities, over defendant's lines, would seem to be fully as well entitled to a private switch as any other large and regular shipper at Corning. Manufacturers are generally recognized as entitled to and needing these facilities more than other shippers. The inducement to railroads in thus treating manufacturers is not alone in the freight directly handled to and from the factory, but it is in the business indirectly brought to the railroad by the manufactory through its employees, and those dependent upon them. Their traveling and their demand for the necessities of life furnish to the railroad remunerative business, and stimulate a local growth, in the benefits of which the railroad shares. In its comparison the defendant has overlooked these considerations, which certainly ought to have weight.

The transaction of the freight business of a manufactory over a private switch is likewise of benefit to a railroad, in that it removes from its main tracks, switches and yards, the loading and unloading of bulky materials. Room is thereby saved which is needed for other purposes.

The argument that this switching service cannot be rendered unless the other freight business of the party over the line is large enough to pay for it, is not altogether tenable. A road is not bound to perform this service for less than such service, considered by itself, is worth. Such is the rule of law and it is difficult to draw the lines for any other rule. The case of a shipper who asks for these special facilities for switching purposes alone, and who does no substantial business over the road, is not here and need not be discussed. The glass works is a substantial shipper by the defendant's line.

The defendant further justifies its action by claiming that the facilities of the switch are to be refused to the complainant, because it does not buy coal of the Fall Brook Coal Company, and because its other shipments over the line are less than they might be if it were friendly to the defendant, and not hostile. The conclusion hereinbefore reached answers this position. We think that, when all the circumstances are considered, the complainant, with such freight as it gives to the defendant for transportation, is fairly within the class of shippers to which the road permits private switches, and for which it does this switching business. It is, therefore, immaterial where its coal is bought, or whether it does, or does not, give to defendant all of its freight.

Again, the Fall Brook Coal Company is a coal dealer with certain chartered rights, while the Fall Brook Coal Company as lessee of the Corning, Cowanesque and Antrim railroad, is a common carrier under the charter of that road. While acting in the latter capacity, is it not against well-settled authority to make the purchase of coal from the Fall Brook Coal Company a *sine qua non* for service or accommodation on its part? Is not the requirement that coal must be purchased of the Fall Brook Coal Company, as the price of a switch, an unjust discrimination in favor of one coal company against others? It fur-

ther seems to be a condition which it imposes upon none of the other parties having private switches.

The conclusion reached by the Board makes it unnecessary to decide this question at present, but it is suggested for the consideration of the defendant.

The point is made that freight consigned by the Erie road to the "glass works at Corning" has reached its destination at the Erie freight yard, and that the service desired is mere "*carting*" which is no part of defendant's legal duty. The uniform practice of defendant in switching such freight to the works show that such has never been the understanding of the parties. The Corning Glass Works at Corning has been understood to be an address requiring delivery upon the switch by the defendant. A more specific address would deprive the point of any force. Again, if defendant undertakes to do what it calls "*carting*" for Corning people, it must do it as a carrier, for reasonable compensation and without unjustly discriminating. It cannot be permitted to do it for some shippers, and to refuse to do it for others equally well entitled thereto under the rules of law.

CONCLUSION.

It follows from these views that the defendant ought to restore the frog removed, and ought to switch cars for the complainant from the junctions with other railroads when requested, as it does for others having private switches at Corning, and the Board so recommends.

JOHN D. KERNAN,
WILLIAM E. ROGERS,
Commissioners.

Attest: WILLIAM C. HUDSON. *Secretary.*

I concur in the conclusion.

JOHN O'DONNELL,
Commissioner.

Attest: WILLIAM C. HUDSON, *Secretary.*

The frog has not been restored, and the matter is still pending in a new complaint before the Board.

XLVI.

CLINTON L. MERRIAM ET AL. AND S. F. MILLER ET AL. *v.* THE UTICA AND BLACK RIVER RAILROAD COMPANY.

October 9, 1885.

These were petitions praying for the building of permanent platforms at certain stations on the line of the Utica and Black River Railroad Company, so as to enable passengers to enter and alight from the cars with greater safety and comfort.

The reply of the company was that each station was provided with movable steps to be placed at each coach when the train arrives. It was thought by the company that this answered the purpose. In re-

gard to permanent platforms to be erected at the stations, the company did not consider them safe and that they could not be placed near enough to the track to be of any use to passengers without being in the way of the snow plows.

Commissioners Kernan and Rogers made a personal inspection of the stations and had hearing upon the complaint, and, subsequent thereto, the following communication was addressed to O. L. Merriam, Esq., representing all the petitioners:

"Hon. C. L. MERRIAM:

"DEAR SIR.—In consequence of your complaint of March 30, 1885, and after considerable correspondence with the railroad, copies of which were submitted to you, a personal inspection of the cars and some of the stations of the Utica and Black River road was made by the Board of Railroad Commissioners on June 30, 1885.

"1st. With regard to the ingress and egress from the cars:

"The height of the lower steps of the car platforms from the level of the top of rail was measured and was found to be about the same as on other railroads.

"The difficulty in reaching the step was found to be due to the ground falling away from the ties and rail.

"The Board, therefore, determined that the best way to overcome it was to cause a plank-walk to be constructed on a level with the top of rail, and running a distance equal to the average length of a train of cars. From this plank-walk to the lower step of the car platform the 'rise' is no greater than on the majority of the railroads of the State.

"The railroad has laid such a walk at Stittville, and if satisfactory, proposes to lay such walks at all the stations on the road.

"This Board invites your attention to it with the request that you examine it and inform the Board if it does away with the grievance you complained of.

"The erection of a high platform on a level with the platform of a car has very serious objections, which are well recognized where it has been tried. This Board, therefore, does not feel disposed to recommend such platforms if the difficulty you complain of can be remedied in any other way. * * * * *

By the Board.

WILLIAM C. HUDSON,
Secretary.

The experiment at Stittville having proved satisfactory, the Board made the following

RECOMMENDATION.

"The Board recommends that the Utica and Black River Railroad Company shall construct and maintain at its stations, plank-walks similar to that recently constructed at Stittville for the convenience of passengers getting on and off of trains, such walks to be as high as the top of the rail; to be well filled on either side of the plank with cinders or gravel; also that the steps and platforms at stations, where defective, be kept in proper repair and condition."

The company has notified the Board of its compliance with the above recommendation.

XLVII.

IN THE MATTER OF A RESOLUTION OF THE CHAMBER OF COMMERCE OF THE CITY OF NEW YORK, PASSED APRIL 2, 1885, REQUESTING A REPORT FROM THE BOARD OF RAILROAD COMMISSIONERS UPON A BILL THEN PENDING BEFORE THE LEGISLATURE TO PREVENT THE "DIVERSION OF FREIGHT."

Submitted by Commissioner Rogers and ordered printed; laid on the table for further consideration and ordered a copy be sent to the Chamber of Commerce.

By Commissioner ROGERS :

At a meeting of the Chamber of Commerce, held April 2, 1885, the following resolution was passed:

"Resolved, That the Chamber of Commerce of the State of New York hereby heartily approves of the accompanying bill to prevent the diversion of freight from one line to another, and which is now pending in the Legislature; and

"WHEREAS, The Board of Railroad Commissioners have reported against this practice of diverting freight from one line to another against the wishes of the shippers, we hereby ask said Board to examine the bill designed to prevent this diversion, and report their approval of same, or otherwise, to the Legislature at their earliest convenience.

"A true copy. .

(Signed)

"CHAS. S. SMITH,

"Vice-President.

"GEORGE WILSON,

"Secretary."

The text of the bill alluded to was as follows.

AN ACT to prevent common carriers, forwarders and railroad corporations from diverting freight contrary to the directions of the shipper.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. It shall not be lawful for any railroad or steamship company, now organized or hereafter to be organized, or for any common-carrier, transportation company, fast freight line, or any other combination or organization, under whatever name designated or however incorporated or organized, or any firm, person or persons to ship or forward goods, wares or merchandise by any other line, route or instrumentality than that selected and designated by the shipper.

§ 2. It shall not be lawful for any railroad, steamship, transportation company, fast freight line, or any other combination or organization, under whatever name designated or however incorporated or organized, or any firm, person or persons to make in its bills of lading or shipping receipts any agreement by means of any written or printed statements contained in such shipping receipts or bills of lading, reserving unto such railroad, steamship, transportation company, fast freight line, or any other combination or organization, under whatever name designated or however incorporated or organized, or firm, person or persons the right to forward such goods, wares or merchandise by any railroad or steamship lines or other instrumentalities of transportation between points of shipment and destination, contrary to the direction of the shipper, and all such contracts, reservations or agreements hereafter made and contained in such shipping receipts or bills of lading shall be null and void and of no effect.

§ 8. The shipping receipt or bill of lading shall, in every case, be presumptive evidence that the goods have been received and the shipment undertaken in accordance with the directions of the shipper as in said bill of lading or shipping receipt contained.

§ 4. Nothing in this act contained shall interfere with such railroad, steamship, transportation company, fast freight line, or any other combination or organization, under whatever name designated or however incorporated or organized, or any firm, person or persons in using other instrumentalities of shipment for forwarding goods, wares or merchandise received by them, notwithstanding the directions of the shipper, to the point of destination, in the event of an untoward or unexpected stoppage of transportation facilities over the routes designated by such shippers.

§ 5. For every offense of diversion of freight to a route or routes other than those designated by the shipper, every corporation, joint-stock association, person or persons so offending shall pay double damages to the proper party in interest for injury caused by delay, detention or loss arising from disregard of shippers' directions, and shall forfeit a penalty of \$250, to be recovered by the people of the State of New York by an action brought in the Supreme Court of the State of New York in the judicial district where the shipment was accepted and received for transportation. And it is hereby made the duty of the Attorney-General of the State of New York to prosecute all actions for such penalty or penalties when advised of the violation of this act by the affidavit of any reputable citizen, or upon his own motion; and one-half of the said penalty or penalties shall be paid to the informer.

§ 6. It shall and may be lawful for the Attorney-General of the State of New York, or for any person or persons, corporation or corporations, feeling aggrieved thereby to prevent by injunction any threatened diversion of freight which is by this act made unlawful.

§ 7. This act shall apply to all trustees, receivers of transportation and railway companies, steamship companies, or firms, person or persons, as well as the officers thereof, and it shall not apply to steamship companies the vessels of which ply between foreign ports and the city of New York.

§ 8. All acts and parts of acts inconsistent with this act are hereby repealed.

§ 9. This act shall take effect immediately.

Section 9, chapter 353 of the Laws of 1882, provides as follows:

"The said Board of Railroad Commissioners shall make an annual report to the Legislature of their doings, including such statements, facts and explanations as will disclose the actual working of the system of railroad transportation in its bearing upon the business and prosperity of the State, and such suggestions as to the general railroad policy of the State, or the amendment of its laws, or as to the condition, affairs or conduct of any of the railroad corporations as may seem to them appropriate. And the said Board of Railway Commissioners shall be charged with the duty to recommend and draft for the Legislature such bills as will, in their judgment, protect the people's interest in and upon the railways of this State. And it shall likewise be the duty of such commissioners to take testimony upon, and have hearing for and against, any proposed change of the law relating to any railway or railways, or proposed change of the general law in relation to railways, if requested to do so by the Legislature or by the committee on railroads of the Senate or Assembly, or by the Governor, or by any railroad company, or by any incorporated organization representing agricultural or commercial interests in the State, and such commissioners shall thereupon report their conclusions, in writing, to the Legislature or to such legislative committee, Governor, company or such organization from whom the request to act emanated."

In conformity with the above section the following report is made to the Chamber of Commerce instead of to the Legislature as called for by the resolution.

As is well known to all those interested in this matter the bill was withdrawn from the Legislature by the committee of merchants in consequence of the representative of the New York Central Railroad, Mr. Depew, agreeing voluntarily on the part of the New York Central,

to discontinue the further diversion of first-class freight ; to omit hereafter the clause from the bill of lading of the Merchants Dispatch reserving the privilege to divert freight, and also the clause compelling shippers to look to the particular road for redress upon which loss or damage occurs. While this solution or compromise settled the question for the time being to the satisfaction of all concerned, and relieved this Board, therefore, of the necessity perhaps of expressing any formal opinion to the Chamber of Commerce, yet, in view of the fact that the underlying principles are liable at any moment to be again called up for determination through some similar case arising, it would seem that this opportunity was a favorable one for the discussion of the subject and for the presentation of the difficulties involved.

The complaint of the merchants which led to the introduction of the bill in question was presented to this Board in February last.

The complainants represented a most important and wealthy class of the community, the combined capital of them all being, according to R. G. Dun & Co., \$242,000,000. The railroads on the other hand, included in the operations of the trunk line pool, represent an aggregate of ten times as much.

The Board found that the grievance complained of existed and should be abated.

An elaborate opinion was delivered by Commissioner O'Donnell ; in the *specific recommendations* of which, at the conclusion thereof, the other members of the Board concurred. They were as follows:

"The Board recommends, as a matter of sound business policy and expediency, that the Trunk lines, particularly such as are New York corporations, and the various fast freight lines controlled by them, shall hereafter omit from their bills of lading, the clause which permits freight to be diverted, and also that which compels the shipper to look to the road for redress upon which loss or damage occurs.

"The insertion of the clause requiring shippers, in case of loss or damage, to have recourse to the road upon which it occurs, is designed to free the fast freight lines from legal liability for such loss or damage. Provisions which are inserted in bills of lading to protect transportation companies against fraud or deceit are recognized as just and proper.

"This provision is not of that character, and ought not to be insisted upon, even conceding its technical legality. The road upon which the loss occurs is liable without such a clause being in the bill of lading. Since the fast freight line undertakes the service with the shipper, it ought to assume the legal liability of the carrier, and then itself settle with the road liable for the default causing loss.

"The diversion of freight, in view of the obvious injury which its continued and extensive practice will cause to New York and its commerce, ought not to continue by consent of New York roads.

"*The questions raised concern through shipments to the west, and hence it is quite certain that the most effective way to cure all the evils complained of, should they not be remedied through voluntary action, such as has already prohibited further diversion of freight, would be through National Legislation.*"

Reference can be had to this opinion for statements in detail, exhibits showing extent of diversion ; argument of Mr. Fink in behalf of the railroad companies, etc.

The salient facts however, stripped of all side issues, may be summed up as follows:

Certain associations, called fast freight lines, *acting as forwarders or forwarding agents*, receive freight in New York city and agree to

forward it to any points in the United States reached by the railroads of the trunk line pool and *at the rates of freight* established by the pool.

These associations or fast freight lines give the shippers receipts or bills of lading, agreeing to forward the freight to its destination but, previous to the agreement above referred to, reserved the right,

First. To ship by any railroad lines they saw fit (for reasons fully set forth in the answer of Commissioner Fink and not necessary to repeat here) and

Second. To compel the shipper, in case of loss or damage to the goods to look to the railroad where such loss or damage occurred for reimbursement.

The complaint of the merchant was,

First. That if he contracted with a fast freight line to take his goods, as for instance with the Merchants Dispatch which went by the way of the New York Central and Lake Shore and Michigan Southern to Chicago, he did not wish to have his goods diverted to some other line or route which took a much longer time;

Second. That the clause in the bill of lading restricting his demand for damages to a suit against the railroad where the loss occurred worked a hardship to which he should not be subjected.

The specific cases of damage, direct and indirect, made out by the merchants clearly showed that a grievance existed which ought to be redressed.

The complainants through their counsel, Mr. Simon Sterne, claimed that redress could be secured by the passage of the bill hereinbefore set forth in the absence of voluntary action by the railroads.

The railroads on the other hand, through their counsel, Mr. Depew, claimed that the law would be unconstitutional if enacted for the reason, among others, that the goods which these shipments covered were articles of interstate commerce and therefore not subject to State control, the Constitution of the United States providing (art., 1, § 8). "The congress shall have power to regulate commerce with foreign nations, and among the several States, and with the Indian tribes."

At this point of the dispute the New York Central and Hudson River Railroad Company wisely recognized the justice of the merchants' claim and conceded it. That company thus conformed to the recommendation of this Board, and there can be little doubt that its course will compel the other lines to pursue the same.

The question, therefore, as to whether the proposed bill if enacted into law would have been constitutional is fortunately an abstract one, but is well worthy of consideration. The principles involved have been very considerably discussed in the courts already, but unfortunately the decisions seem somewhat conflicting or at least *indeterminate*. The subject involves treading on delicate ground, but it is hoped that its treatment at present may throw some light upon it and also serve to give in detail the reasons for the last recommendation of the Board above quoted, viz.:

"The questions raised concern through shipments to the west, and hence it is quite certain that the most effective way to cure all the evils complained of, should they not be remedied through voluntary action, such as has already prohibited further diversion of freight, would be through National Legislation."

The Board greatly regrets that in consequence of the stoppage of the proceedings at the point hereinbefore narrated, it is deprived of the valuable brief of Mr. Sterne. The present condition of this question, however, is briefly set forth as follows:

HISTORICAL VIEW.

A perusal of the discussions in the constitutional convention of 1787 at Philadelphia, when the provision with regard to Congress having the power to regulate commerce among the several States was inserted, shows beyond a doubt that it was the intention of the framers of the Constitution to put commerce "among the several States" beyond the power of different States to hamper it with conflicting rules and regulations.

A learned essay by Judge James Fentress, of New Orleans, may well be referred to on this point. Before discussing the deliberations of the convention, he calls attention, to the fact that in the "Articles of Confederation" adopted by the United States as its fundamental law previous to the adoption of the present Constitution, the powers of Congress, as defined in article nine of that instrument were that "the United States in Congress assembled shall "also have the sole and exclusive power of regulating the alloy and value "of coin struck by their own authority or by that of the respective States. "fixing the standard of weights and measures throughout the United "States, regulating the trade, and managing all affairs with the Indians. "not members of any of the States. *Provided that the legislative right "of any State, within its own limits, be not infringed or violated.*"

He quotes Mr. Hamilton in writing of "The defects of the Federal System" under the articles of confederation as mentioning such as "render "that system *altogether unfit* for the administration of the "affairs of the union; the want of power to regulate commerce as by *all* "parties allowed to be of that number.

"The utility of such a power has been anticipated under the first head of our enquiries; and for this reason as well as from the universal conviction entertained upon the subject, little need be added in this place. It is indeed evident on the most superficial view, that there is no object, either as it respects trade or finance, that more strongly demands a *federal superintendence*.

"The interfering and unneighborly regulations of some States contrary to the *true spirit of the Union* have in different instances given just cause of umbrage and complaint to others; and it is to be feared that examples of this nature, if not restrained by a *national control*, would be multiplied and extended until they become not less serious sources of animosity and discord than injurious impediments to the intercourse between the different parts of the Confederacy * * * We may reasonably expect from the gradual conflicts of State regulations that the citizens of each would at length come to be considered and treated by the other in no better light than that of foreigners and aliens." "Federalist No. 23, pp. 104, 105, also 33 and 56."

Judge Fentress quotes General Washington as follows:

"General Washington, in referring to the report in May, 1775, of a committee of Congress on the motion of Mr. Monroe, that Congress should have the sole and exclusive right and power of regulating the trade of the States as well with foreign nations as with each other, etc., says: 'We are either a united people, or we are not so. If the former, let us in all matters of general concern act as a nation

which has a National character to support; if we are not, let us no longer act a farce by pretending to it." ("The Writings of Washington, by Sparks, vol. 9, pages 146 and 501.")

"Again General Washington says: 'We have abundant reason to be convinced that the spirit of trade which pervades these States is not to be restrained. It behooves us then to establish just principles; and this cannot, any more than other matters of national concern, be done by *thirteen heads* differently constructed and organized. The necessity, therefore, of a controlling power is obvious, and why it should be withheld is beyond my comprehension.'" ("Id., pages 140 and 141 and 161 and 162, 183.")

Judge Fentress then goes on to show how delegates from five States met at Annapolis in September, 1786, to consider the adoption of measures to regulate commerce. New Jersey empowered her commissioners not only to consider commerce, but also "other important matters;" and as the commissioners from the other States were authorized to deal with "commerce" only, the delegates, after consultation, agreed to recommend to each State that they all send delegates to a convention in Philadelphia in May, 1787, "to devise such further provisions as shall appear to them necessary to render the Constitution of the Federal Government adequate to the exigencies of the Union." (Elliot's Debates, vol. , page 151.) The convention that met at Philadelphia, in pursuance of this recommendation, was that which drafted the present Constitution. Judge Fentress gives a full account of the debates and the circumstances attending the adoption of the particular words finally agreed upon. He calls attention to a construction by the convention of what the words used as to regulating commerce meant. When the Constitution had been completed a letter of the members of the convention was sent with the final draft to Congress and to the States, "and what is more, this letter was adopted paragraph by paragraph. It says, among other things, that 'the friends of our country have long seen and desired that the power of making war, peace and treaties, that of coining money *and regulating commerce*, and the correspondent executive and judicial authorities shall be fully and effectually vested in the Federal Government of the Union.'" Judge Fentress makes a strong argument to show that it was also the intention of the framers of the Constitution to regulate commerce regardless of whether it was what is popularly described as "domestic" or "interstate;" that is, *all* commerce; whether confined within the boundaries of one State or passing from one to the other. He dwells learnedly upon the derivative meaning of the word "among" as fortifying his position.

Without going to the length reached by Judge Fentress, it is difficult to see how an article that is being transported, or is consigned for transportation from one State to another, can be other than an article of "commerce among the several States," and, therefore, the subject of Federal control. When, however, a commercial transaction begins and ends within one State, and the article of which it is the subject at no time passes beyond that State's boundaries, it seems quite clear that it does not come within the above definition. Indeed, the decisions of the United States Supreme Court, in the words of Judge Hammond, of the United States District Court for Tennessee, in the case of the *Louisville & Nashville R. R. v. R. R. Commissioners of*

Tennessee, undeniably "close the argument and preserve the right of "State control, notwithstanding any disturbance it may occasion rates "for transportation between the States." Chief Justice Marshall says: "Comprehensive as the word 'among' is, it may very properly be restricted to that commerce which concerns more States "than one," and "the completely internal commerce of a State then "may be considered as reserved for the State itself." (*Gibbons v. Ogden*, 9 Wheat. 194, 195.)

That the State in the exercise of what is generally termed its "police power" (that is, the power to preserve the order, health and safety of the community) may impose regulations on the instrumentalities of commerce, which would indirectly affect interstate commerce itself, is undoubtedly true and is universally conceded by those who have studied the subject, particularly in the absence of congressional action. For instance, if the State should enact that nitro-glycerine should not be transported through its territory unless packed and guarded in a particular way, upon the ground of the danger to the community, it could unquestionably enforce the regulation whether the nitro-glycerine was an article of interstate commerce or not. If, however, Congress should enact that nitro-glycerine should be transported when packed in some other way, the United States regulation would supersede that of the State when passing from one State to another.

If the State should arbitrarily enact, however, that wheat should not be transported through or into its territory except in bags of a peculiar size or texture, there can be no doubt that it would clearly violate the spirit of the United States Constitution. Examples of this kind can be multiplied *ad infinitum*.

That the State may also establish certain other regulations as to the *instrumentalities* of commerce, provided they do not hamper commerce itself, particularly in the absence of congressional action, is also clearly established by the decisions of the United States Supreme Court. The regulation of pilotage, of buoys, the erection even of a bridge or dam across a navigable stream under certain circumstances by the authority of the State, have been adjudged permissible by the highest court of the land, as will be shown by the citation of cases hereafter.

Where the dividing line between the jurisdiction of the State and of the United States is so difficult to determine, and where in many cases the jurisdiction is concurrent, as in the absence of congressional action it must be, it would seem that the only true way to determine what the State can do and what it cannot, is to keep in mind the *spirit* of the Constitution of the United States, which plainly was and is that trade should be *free and unhampered* among the several States.

The difficulty has been felt by the judges of the Supreme Court and repeatedly alluded to. Perhaps no one illustration can better express it than that by Justice Field in delivering the opinion of the court in the case of *Welton v. State of Missouri* (91 U. S., p. 275). He says:

"There is a difficulty, it is true, in all cases of this character in drawing the line precisely where the commercial power of Congress ends and the power of the State begins. A similar difficulty was felt by this court in *Brown v. Maryland*, in drawing the line of distinction between the restrictions upon the power of the

States to lay a duty on imports, and their acknowledged power to tax persons and property; but the court observed that the two, though quite distinguishable when they do not approach each other, may yet, like the intervening colors between white and black, approach so nearly as to perplex the understanding, as colors perplex the vision in marking the distinction between them; but that as the *distinction exists it must be marked as the case arises.*"

A reflection is then made upon the *prematureness* of stating any rule as being universal in its application. The court then goes on to say:

"The fact that Congress has not seen fit to prescribe any specific rules to govern interstate commerce does not affect the question; its inaction on this subject, when considered with reference to its legislation with respect to foreign commerce, is equivalent to a declaration that interstate commerce shall be free and untrammelled."

The ground taken by the extreme advocates of State control, that because railroad corporations are chartered by a State and derive their very existence from such charter, and are, therefore, subject to any and all regulations imposed by the State, upon the ground that the greater includes the less, seems untenable. While it is true that the corporation is a creature of the State, yet, if the State permits it to carry articles among the several States, to that extent it becomes engaged in interstate commerce and subject to Federal control. The State can withdraw its consent to the corporation's existence, of course, and in that way prohibit disregard of its behests, but so long as the State permits the corporation to exist, it has certain rights with reference to interstate commerce, guaranteed by the United States Constitution, and free from State control.

The argument *ab inconvenienti* is misleading; that is to say that by reason of the national government not having acted the State ought to have power to redress those grievances which otherwise go without any redress at all.

The question is, after all, not what the State *ought* to have the power to do but rather what it *has* the power to do.

It may well be asked, if the State has the power to act on interstate commerce to impose wise regulations, why not unwise ones?

While an interference might seem wise at the time, the result might be to hamper that which it was intended to help.

DECISIONS OF THE COURTS.

As showing the difficulty of formulating a *general rule* universally applicable a short synopsis of the leading cases in the United States Supreme Court is herewith given, so far as they are applicable to the particular point at issue.

A most exhaustive and able review of them was made by Judge Hammond, in an opinion from the United States Circuit Court, in the case of the *Louisville and Nashville Railroad v. The Railroad Commissioners of Tennessee*, reported in full in the "Daily American," Nashville, March 12, 1884.

The whole discussion is so able, the citation of authorities so complete, that it is embarrassing to determine what part to insert here. It is advised that the whole opinion be carefully read.

The following synopsis, however, is given:

"Until Congress chooses to exercise whatever power it may have over domestic commerce, as above described, by reason of whatever relation it may bear to interstate commerce as an auxiliary or instrumentality thereof, the States may continue their control over it as over any other such instrumentality within their territorial limits, although the interstate commerce of which it is an instrumentality may be indirectly or incidentally affected by such control, but they can never touch the interstate commerce itself by direct action upon it or any part of it, by these regulations, and any State law, be it wise or unwise, valid or invalid in other respects, and no matter what its character or the necessity for such a law may be, which acts upon the contracts for interstate transportation between the carrier and shipper to regulate the charges for it or any part of it or the conditions thereof in any respect, operates directly upon the commerce itself, of which the transportation is certainly a part and not on an instrumentality of it. These distinctions must be observed in legislation, and that which neglects or overlooks them, or assumes to disregard them, is necessarily invalid. And the courts cannot cure the defect by supplying through judicial decree the necessary qualifications to conform the legislation to constitutional limitations.

"It is as impossible for a State to make a regulation of interstate commerce by the exercise of its power over the corporations of its creation, as by any other power, if it permits them to engage in interstate commerce. Possibly it may bind the corporations permitted to engage in interstate commerce to schedules of rates agreed upon by them; but this is binding only by force of the contract of the carrier to be so bound and not as a regulation of the rates under any municipal power of the States over the commerce. A regulation of interstate commerce as such is as invalid in a charter as elsewhere in a State statute."

Judge Hammond's conclusions conform to the views hereinbefore expressed.

He endeavors to reconcile the expressions and dicta of the United States Supreme Court, where claimed to be contradictory, by formulating the following principle in the form of a question, viz., "does the 'proposed (State) law act upon the commerce itself or does it act only 'on the instrumentality? If the first, it is always void; if the second, 'its validity depends on the circumstances.'" He then goes on to say:

"Here lies the fallacy of this, and all legislation, which overlooks the not always broad distinction between regulating the *commerce itself* and its *instrumentalities*, and we have the authority of the Supreme Court in the next case cited for saying it is often disregarded. We quote again, 'commerce with foreign countries and among States, strictly considered, consists of intercourse and traffic, including in these terms navigation and the transportation and transit of person and property, as well as the purchase, sale and exchange of commodities. For the regulation of commerce as there defined there can be only one system of rules applicable alike to the whole country and the authority which can act for the whole country can alone adopt such a system. Action upon it by separate States is not therefore permissible.

Language affirming the exclusiveness of the great power over commerce as thus defined, may not be inaccurate, when it would be so when applied to legislation upon subjects which are merely auxiliary to commerce. *Mobile v. Kimball*, 102 U. S., p. 691-702."

Gibbons v. Ogden, 9 Wheat. 197. This may be regarded as the first test case in which the respective limits of the State and federal jurisdiction with regard to commerce were fully discussed. (Feb. 1824) Chief Justice Marshall delivered the opinion of the court. It was held that the acts of the Legislature of the State of New York, granting to Robert R. Livingston and Robert Fulton, the exclusive navigation of all the waters within the jurisdiction of that State, with boats

moved by fire or steam, for a term of years, was repugnant to that clause of the Constitution of the United States which authorizes Congress to regulate commerce, so far as the said act prohibits vessels licensed according to the laws of the United States for carrying on the coast trade, from navigating the said waters by means of fire or steam. A large part of the opinion is an argument to show that the power to regulate "commerce" includes the power to regulate "navigation" and the things incident thereto. In delivering the opinion of the court, Chief Justice Marshall said:

"What is this power? It is the power to regulate; that is to prescribe the rule by which commerce is to be governed. This power, like others, vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations, other than are prescribed in the Constitution."

He discusses the difficulty of formulating a general rule distinctly defining the State and United States jurisdiction, and shows that quarantine laws may be passed by the State, in the exercise of police powers, although indirectly affecting commerce.

"A State, it is said, or even a private citizen, may construct light-houses. But gentlemen must be aware that if this proves a power in a State to regulate commerce it proves that the same power is in the citizen."

In conclusion the Chief Justice says:

"Powerful and ingenious minds taking as postulates that the powers expressly granted to the government of the Union are to be contracted by construction into the narrowest possible compass, and that the original powers of the States are retained, if any possible construction will retain them, may, by a course of well digested but refined and metaphysical reasoning, founded on these premises, explain away the constitution of our country and leave it a magnificent structure indeed to look at, but totally unfit for use."

In the same case Justice Johnson, speaking of the power of the State to impose *health* regulations, says, "and the health laws that require 'them (goods) to be stopped and ventilated are no more intended as 'regulations on commerce, than the laws which permit their importation are intended to inculcate the community with disease.'"

And again he says:

"It would be in vain to deny the possibility of a clashing and collision between the measures of the two governments. The line cannot be drawn with sufficient distinctions between the *municipal powers* of the one and the commercial powers of the other. In some points they meet and blend so as scarcely to admit of separation."

Wilson and others v. The Blackbird Creek Marsh Company, 2nd Peters, 245, A. D. 1829. The principle discussed in this case was whether a statute of Delaware authorizing a dam across the Blackbird creek was in conflict with the Constitution of the United States. The court decided that the act authorizing the creation of the dam was not in conflict. In delivering the opinion of the court, Chief Justice Marshall says:

"If Congress had passed any act which bore upon the case, any act in execution of the power to regulate commerce, the object of which was to control State legislation over these small navigable creeks into which the tide flows and which

abound throughout the lower country of the middle and southern States, we should feel not much difficulty in saying that the State law coming in conflict with such an act would be void; but Congress has passed no such act. The repugnancy of the law of Delaware to the Constitution is placed entirely on its repugnancy to the power to regulate commerce with foreign nations and among the several States; a power which has not been so exercised as to affect *this question*. We don't think that the act empowering the Blackbird Creek Marsh Company to place a dam across the creek can, under all the circumstances of the case, be considered as repugnant to the power to regulate commerce in its dormant state, or as being in conflict with any law passed on the subject."

In the case of *Cooley v. Wardens*, 12th Howard, p. 311, it was decided that the law of Pennsylvania, regulating pilotage fees, was not in conflict with the Constitution of the United States giving the power to Congress to regulate commerce. This case is frequently cited as a precedent. What it decides specifically is that a State may regulate pilotage in the absence of congressional action upon the subject. Judge Curtis in delivering the opinion of the court said:

"Whatever subjects of this power are in their nature national or admit only of one uniform system or plan of regulation, may justly be said to be of such a nature as to require exclusive legislation by Congress. That this cannot be affirmed of laws for the regulation of pilots and pilotage is plain."

Gilman v. Philadelphia, 3rd Wallace reports, p. 728. This was a suit involving the right of the State of Pennsylvania to authorize a bridge to be built over the Schuylkill river, the claim being upon the part of Gilman that it impeded navigation and injured the value of certain dock property of his. The right to build the bridge was sustained. In delivering the opinion of the court, Mr. Justice Swain said:

"Bridges are of the same nature with ferries and are undoubtedly within the category thus laid down. The power to regulate commerce covers a wide field and embraces a great variety of subjects. Some of these subjects call for uniform rules and National legislation, others can be best regulated by rules and provisions suggested by the varying circumstances of different localities and limited in their operation to such localities respectively. To this extent the power to regulate commerce may be exercised by the States. Whether the power in any given case is vested exclusively in the general government depends upon the nature of the subject to be regulated. Pilot laws are regulations of commerce but if a State enacted them in good faith and not covertly for another purpose, they are not in conflict with the power to regulate commerce permitted to Congress by the Constitution."

It is proper to say that in this case there were three dissenting judges, viz.: Justices Clifford, Wayne and Davis. They dissented upon the ground that the bridge was an obstruction to navigation, that the right of navigation was a paramount right and that the State had not right to interfere whether Congress had specifically acted or not.

In the *State Freight Tax Case*, 15 Wallace, p. 232 et seq., a law of Pennsylvania imposing a tax upon freight taken up within the State and carried out of it, or taken up without the State and brought within

it, was declared repugnant to that provision of the Constitution which ordains that "Congress shall have power to regulate," etc. In delivering the opinion of the court Mr. Justice Strong said :

"The rule has been asserted with great clearness that whenever the subjects over which a power to regulate commerce is asserted are in their nature national or admit of one uniform system or plan of regulation, they may justly be said to be of such a nature as to require exclusive legislation by Congress. Surely transportation of passengers or merchandise through a State or from one State to another is of this nature. It is of national importance that over that subject there should be but one regulating power, for if one State can directly tax persons or property passing through it or tax them indirectly by levying a tax upon their transportation, every other may, and thus commercial intercourse between the States remote from each other may be destroyed."

In the *Lackawanna Case*, 21 Wallace, Justice Bradley, in the course of the opinion, says :

"It would undoubtedly be far more satisfactory to have a uniform law regulating such liens, but until such a law be adopted (supposing Congress to have the power) the authority of the States to legislate on the subject seems to be conceded by the uniform course of decisions. Indeed, there is quite an extensive field of border legislation on commercial subjects (generally local in character) which may be regulated by State laws until Congress interferes and thereby excludes further State legislation. Pilotage is one of the subjects in this category."

He goes on to say however, that "the State regulations may be superseded at any time by Congress."

Welton v. State of Missouri, 91 U. S., p. 275. A statute of Missouri which required a license tax from persons dealing in goods which were not grown or manufactured in Missouri, by going from place to place to sell the same, and required *no such tax* from persons selling in a similar way goods which were grown or manufactured in the State, was held unconstitutional.

In the case of *Henderson et al. v. Mayor of the City of New York and Commissioners of Immigration v. North German Lloyd*, 92 U. S. p. , it was held as a result of the *Passenger Cases*, 7 How. 283, that a tax demanded of the master or owner of the vessel for every such passenger was a regulation of commerce by the State, in conflict with the Constitution of the United States, and void.

Guerloch et al. v. Alling, Administrator, 93 U. S. p. 104. In case of injury on a navigable river (the Ohio) the court says :

"Until Congress, therefore, makes some regulation touching the liability of parties for marine torts resulting in the death of the persons injured, we are of opinion that the statute of Indiana applies, giving a right of action in such cases to the personal representatives of the deceased, and that, as thus applied it constitutes no encroachment upon the commercial power of Congress."

The case of *Munn v. Illinois*, 94 U. S., p. 135, the leading "granger case," is constantly appealed to as supporting the extreme view of the State's power to interfere.

The point raised by the plaintiffs in error in that case, so far as applicable to the present discussion, was that the State of Illinois had no right to make rules regulating the price for elevating grain and method of conducting business by the grain elevators in Chicago, because the grain was an article of interstate commerce.

The right of the State to make such regulations was sustained by the court.

In the opinion rendered by Judge Waite, he says:

"It was very properly said in the case of the *State Tax on Railway Gross Receipts*, 15 Wall. 293, that 'it is not every thing that affects commerce that amounts to a regulation of it within the meaning of the constitution.'

"The warehouses of these plaintiffs in error are situated and their business carried on exclusively within the limits of the State of Illinois. They are used as *instruments* by those engaged in State as well as those engaged in interstate commerce, but they are no more necessarily a part of commerce itself than the dray or the cart by which, but for them, grain would be transferred from one railroad station to another. Incidentally they may become connected with interstate commerce, but not necessarily so. Their regulation is a thing of domestic concern, and certainly, until Congress acts in reference to their interstate relations, the State may exercise all the powers of government over them, even though in so doing it may indirectly operate upon commerce outside its immediate jurisdiction.

"We do not say that a case may not arise in which it will be found that a State, under the form of regulating its own affairs, has encroached upon the *exclusive domain of Congress*, in respect to interstate commerce, but we do say that, upon the facts as they are represented to us in this record, that has not been done."

It does not seem that the above decision quite warrants the conclusions drawn by the extreme advocates of State control.

The utmost that can be claimed, as to the approval of the interference of the State with articles of interstate commerce, is that interstate grain passing through elevators should not be charged more than a certain rate.

The opinion was dissented from by Justices Field and Strong, but *not* on the ground of the statutes, being a regulation of interstate commerce, but on the ground that elevating grain was a *private business*, and not subject to State interference as to *price charged*.

It is worthy of note that in cases where a State has passed an act hampering commerce on whatever ground, police power or otherwise, the Supreme Court of the United States has found it in conflict with section 9, article 1, of the United States Constitution. *Foster v. Master, etc., of New Orleans* (94 U. S. 246).

Where the State has passed laws to facilitate commerce, however their constitutionality has generally been affirmed. *Co. of Mobile v. Kimball*, 102 U. S. 691.

Chich., etc., R. R. v. Iowa (94 U. S., p. 163). In delivering the opinion of the court Judge Waite said:

"This road, like the warehouse in that case (*Munn v. Illinois*), is situated within the limits of a single State. Its business is carried on there and its regu-

lation is a matter of domestic concern. It is employed in State as well as in interstate commerce; and, *until Congress acts*, the State must be permitted to adopt such rules and regulations as may be necessary for the promotion of the general welfare of the people within its own jurisdiction, even though in so doing those without may be indirectly affected."

In the case of *Peck v. Chicago Railway Company* (94 U. S., p. 178), Judge Waite says:

"Until Congress acts in reference to the relations of this company to interstate commerce, it is certainly within the power of Wisconsin to regulate its fares so far as they are of domestic concern. With the people of Wisconsin this company has domestic relations. Incidentally they may reach beyond the State. But certainly until Congress undertakes to legislate for those who are without the State, Wisconsin may provide for those within, even though it may indirectly affect those without."

Railroad Co. v. Husen (95 U. S., p. 465). A statute of Missouri, which prohibited driving or conveying any Texas, Mexican or Indian cattle into the State between the first day of March and first day of November of each year, was held unconstitutional. Such a statute was not a legitimate exercise of the police power of the State. While a State for the purpose of self-protection may establish sanitary laws, quarantine and reasonable infection regulations, and prevent persons and animals having contagious or infectious diseases from entering the State, it cannot beyond what is absolutely necessary.

Hale v. De Cuir (95 U. S., p. 487). In this case the court held a statute of Louisiana, compelling steamboats on the Mississippi to admit colored people to the same cabin with whites, unconstitutional, on the ground of its regulating interstate commerce. In delivering the opinion of the court, Chief Justice Waite said:

"The line which separates the powers of the States from this exclusive power of Congress is not always distinctly marked, and oftentimes it is not easy to determine on which side a particular case belongs. Judges not unfrequently differ in their reasons for a decision in which they concur.

"Under such circumstances it would be a useless task to undertake to fix an arbitrary rule by which the line must in all cases be located. *It is far better to leave a matter of such delicacy to be settled in each case upon a view of the particular rights involved.*

"But we think it may be safely said that State legislation which seeks to impose a direct burden upon interstate commerce, or to interfere directly with its freedom, does encroach upon the exclusive power of Congress, necessary for self-protection, interfere with transportation with or through its territory.

Transportation Company v. Parkersburg (97 U. S. p. 691). In this case *wharfage* is defined as the compensation which the owner of a wharf demands for the use thereof (whether the owner is an individual, firm or corporation, and is adjudged allowable), a duty of tonnage is defined as a charge for the *privilege* of entering or loading at or lying in a port or harbor, and can be laid only by the United States.

As further illustrating the distinction between what regulations can and what cannot be passed—

A municipal corporation owning improved wharves and other artificial means which it maintains at its own cost for the benefit of those engaged in commerce upon the public navigable waters of the United States is not prohibited by the constitution of the United States (art. 1, § 8) from charging and collecting from parties using its wharves and facilities such reasonable fees as will fairly remunerate it for the use of its property. (*Packet Company v. St. Louis*, 100 U. S., p. 423.)

But an ordinance of Baltimore, whereunder vessels laden with the products of other States were required to pay for the use of the public wharves of that city fees which were not exacted from vessels landing, thereat with the products of Maryland, was held in conflict with the Constitution of the United States. (*Guy v. Baltimore*, p. 440.)

Justice Harlan, in delivering the opinion of the court, used the following words:

"In view of these and other decisions of this court it must be regarded as settled that no State can, consistently with the Federal Constitution, impose upon the products of other States brought therein for sale or use, or upon citizens because engaged in the sale therein, and the transportation thereto of the products of other States, more onerous public burdens or taxes than it imposes upon the like products of its own territory.

"If this were not so, it is easy to perceive how the power of Congress to regulate commerce with foreign nations and among the several States could be practically annulled, and the equality of commercial privileges secured by the Federal Constitution to citizens of the several States be materially abridged."

Judge Harlan then quotes Mr. Webster as follows:

"'Over whatever other interests of the country,'" said Mr. Webster, 'this government may diffuse its benefits and blessings, it will always be true, as a matter of historical fact, that it had its immediate origin in the necessities of commerce; and for its immediate object the relief of those necessities by removing their causes, and by establishing a uniform and steady system.' After which he says: 'But State legislation, such as that indicated in the cases which have been cited, if maintained by this court, would ultimately bring our commerce to that oppressed and degraded State existing at the adoption of the present Constitution, when a helpless and inadequate confederation was abandoned and a national government instituted, with full power over the entire subject of commerce, except that wholly internal to the States composing the Union.'"

The last expressions quoted seem somewhat contradictory in principle with the first, for the reason that if a State

"Cannot impose upon the products of other States brought therein for sale or use * * * or the transportation thereto, *more onerous public burdens or taxes* than it imposes upon the like products of its own territory."

the inference would be that it could impose *as* onerous burdens on the products of other States brought within its borders. It might, therefore, destroy the *inter-State* commerce at the same time with its own; or it might impose burdens on some articles which it could not manufacture or raise within its own boundaries, thereby inflicting apparently no damage on its own citizens, but hampering the free inter-

change of commodities to the detriment of citizens of other States, thus bringing about the very evils stated in the latter part of the opinion quoted.

The principle seems to be held to be the law however, certainly so far as the *sale* of articles is concerned, not only in that case but in several others quoted therein, to wit: *Woodruff v. Parkham* (8 Wall. 123), and *Hinson v. Lott* (8 Wall. 148), in which latter the court says:

"We upheld a statute of Alabama imposing taxes upon the sale of spirituous liquors within its limits, upon the ground that it did not discriminate against the products of other States, and only subjected them to the same taxation imposed upon similar articles manufactured in that State. Had the statute been susceptible of a different construction, it would have been held to be repugnant to the Constitution."

It may be claimed, however, that a regulation with regard to the *sale* or even importation of spirituous liquors comes within the police powers of the State. If so, the expressions above quoted may be regarded as not applicable to the particular point now at issue. Indeed in the same case later on the court says:

"In the exercise of its police powers a State may exclude from its territory or prohibit the sale therein of any articles which in its judgment, *fairly exercised*, are prejudicial to the health, or which would endanger the lives or property of its people. But if the State, under the guise of exerting its police powers, should make such exclusion or prohibition applicable solely to articles of that kind that may be produced or manufactured in other States, the court would find no difficulty in holding such legislation to be in conflict with the Constitution of the United States."

In the case of *Woodruff v. Parkham* (8 Wall. 123), however, the court held a statute of Alabama constitutional which

"imposed a tax on sales of merchandise imposed alike on all sales made in Mobile, whether the sales be made by a citizen of Alabama or of another State, and whether the goods sold are the products of that State or some other."

This case, while not exactly applicable to the point now being considered, is sufficiently so to embarrass the formulation of a general principle.

While the law is made clear, apparently, as to the *sale* of articles, the cases do not so clearly settle the question of regulating the transportation charges.

Moran v. New Orleans, U. S. Reports, 112, p. 69. A municipal ordinance of the city of New Orleans to establish the rate of license for professions, callings and other business, which assessed and directed a tax to be collected from persons owning and running tow-boats to and from the gulf of Mexico and the city of New Orleans, was held to be a regulation of commerce among the States and an infringement of the provisions of Art. 1, § 3 of the United States Constitution.

Recognizing, then, the difficulty of formulating a rule applicable to all these cases, and adopting the words of Chief Justice Waite, namely: "*it is far better to leave a matter of such delicacy to be settled in each*

case upon a view of the particular rights involved," the question arises first, whether the particular regulations sought to be imposed by the bill under consideration upon articles of inter-State commerce are within the constitutional power of the State, and second, whether if enacted into law, they would redress the grievances.

The first section prohibits any railroad or steamship corporation, fast freight line, etc., to ship or forward goods by any *other route or line than that selected by the shipper*.

It is perfectly clear that if the goods were offered to a railroad company to be shipped to a point on its own line within the State, it would be obliged to accept them. Such is already the obligation imposed upon common carriers by the common law and is not disputed by any one.

But suppose the point should be in Illinois? (and all the goods about which this controversy arose are shipped to distant States), can this State compel the New York Central and Hudson River Railroad Company, which runs to Buffalo, to accept goods for points in Illinois? The New York Central would answer, "We don't go to Illinois; we go to Buffalo." No doubt the New York Central and Hudson River railroad could be compelled to take the goods and deliver them to the Lake Shore and Michigan Southern at Buffalo. But where does the power lie in the State to compel the Lake Shore and Michigan Southern to deliver them, at the end of its line, to the connecting road, and see to it that the latter road should in turn deliver them to another, and so on to their final destination?

It would seem that if the New York Central and Hudson River railroad should decline to receive the goods, the section would be wholly inoperative.

The merchants say, however, that if the diversions complained of were prohibited at the initial roads they would take their chances of the goods reaching their destination; that in consequence of the New York Central and Hudson River railroad having its connections complete, if the goods were started right they would go on without interruption. While this might be true if the New York Central and connecting lines should choose to act as forwarding agents, each for the other; it would not be true if they did *not* so choose, and it certainly cannot be shown that the State has the power to compel them.

So far as the fast freight lines are concerned, they are simply voluntary associations acting as forwarders; many of them not incorporated at all. If they considered this obligation imposed upon them as unduly onerous they could disband and the merchant would be unable to secure a through bill of lading for his goods to any point not reached by a railroad of the State.

It would seem that a statute bringing about such a result could not fail to be adjudged as an interference with inter-State commerce.

These fast freight lines have no permanent "plant" nor do they receive any special privileges from the State.

The second section of the bill *prohibits the making of any contract* between a shipper and a transportation company, containing a clause permitting the transportation company to forward the freight in any other way than that originally selected by the shipper, even if the shipper may desire to so contract for a consideration.

This would seem to be pushing the right of the State to interfere with the right of private contract to the very furthest limit.

It is a settled principle that the State has no right to interfere with citizens contracting with each other, unless the things contracted to be done are contrary to the peace, public morals, public health, or a settled public policy authorized by law.

The right to prohibit such contracts cannot be claimed on the first two grounds, and reliance must be placed on the third.

Admitting that the United States could enact such a law under its specific powers to regulate commerce among the several States, is it not clearly beyond the power of any one State to prescribe the form of contract that shall or shall not be made between citizens and transportation companies governing the shipment of goods from one State to another, and *exclusively* from one State to another?

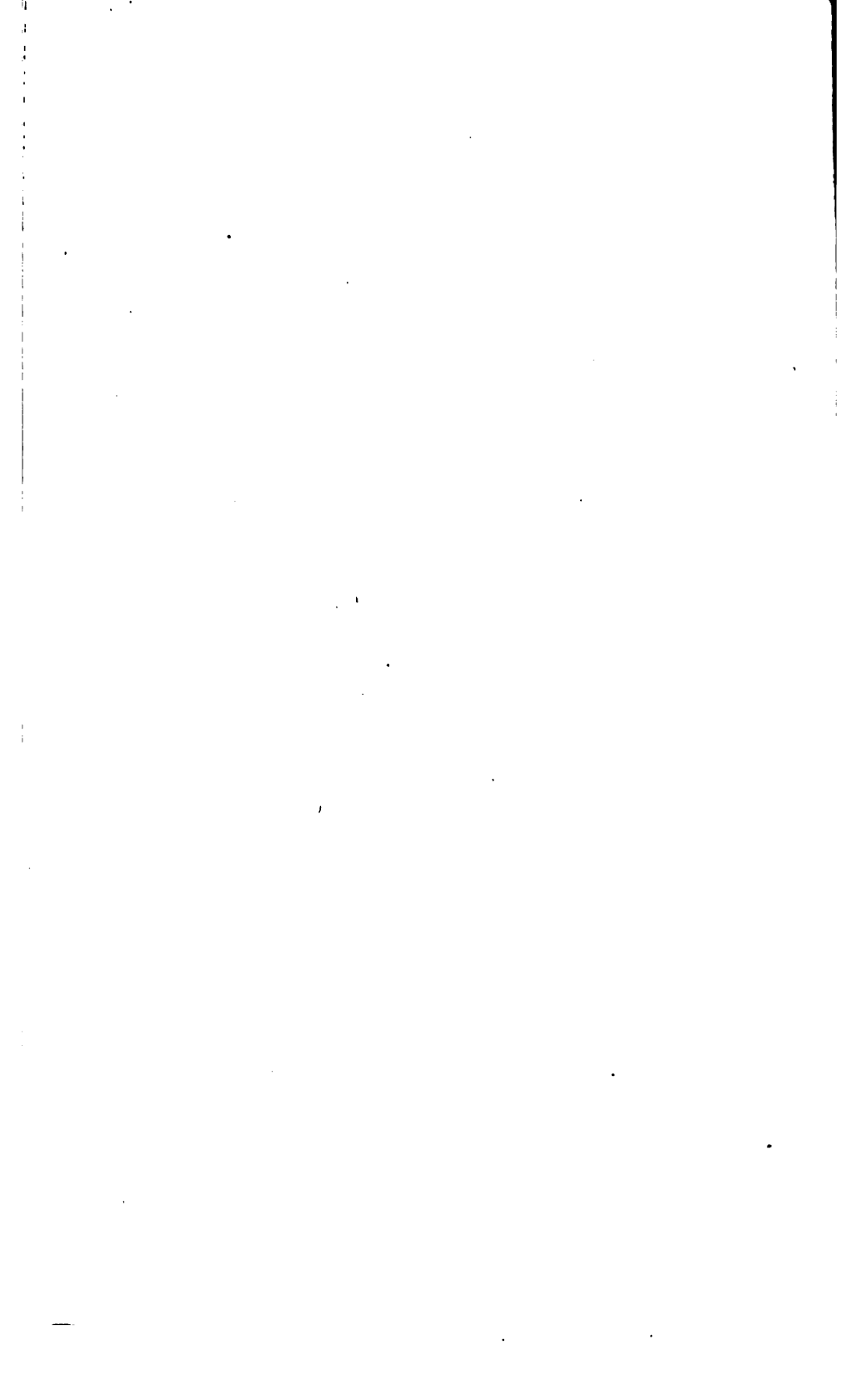
There is no claim made that this section is intended to regulate transactions of domestic commerce, and thereby would only incidentally affect interstate commerce; coming, therefore, within the permissible State regulations hereinbefore mentioned. On the contrary as a matter of fact, the section would affect *exclusively* interstate transactions, and not at all *domestic*, or those beginning and ending within the State.

If the State can prescribe such rules as this who shall define the limit beyond which it may not go?

Why could it not prescribe that no goods should be shipped without the State except when paid for before shipment, and that any contract between the buyer and seller allowing credit to the former should be null and void?

While it may be true that the proposed regulation would be a wise one, if the State has the power to impose such an one on commerce among the several States, why has it not the power to impose any and all?

Is it not clear that the framers of the Constitution considered it safer to prohibit the exercise of any such power?



APPLICATIONS FOR INCREASE OF CAPITAL STOCK.

I.

IN THE MATTER OF THE APPLICATION OF THE BROADWAY RAILROAD COMPANY, OF NEW YORK CITY, TO INCREASE ITS CAPITAL STOCK FROM \$100,000 TO \$1,000,000.

November 13, 1884.

This application was made to the Board on October 1, 1884, and the paper in which to advertise the notice of the meeting of the stockholders was immediately designated. In pursuance of this notice and of law, this meeting was held and proofs of the advertisement and a verified copy of the stockholders were filed with the Board on November 1st. November the 13th, the Board sent to the company for a verified statement of the financial condition of the company. But such statement has never been sent the Board, and the company seems to have suspended proceedings in the matter.

II.

IN THE MATTER OF THE APPLICATION OF THE THIRTY-FOURTH STREET RAILROAD COMPANY, OF NEW YORK CITY, TO INCREASE ITS CAPITAL STOCK FROM \$100,000 TO \$300,000.

January 3, 1885.

All of the preliminary proceedings in this application were complied with and a hearing was set down for January 20, 1884. At that hearing, Mr. D. J. Apgar, the secretary of the company, appeared and informed the Board that proceedings to enjoin the company from building the road on Thirty-fourth street had been begun and had not, as yet, been decided and, pending the decision, the work of construction had been discontinued. The Board required a statement of the construction account to that date, under oath, be sent to it, also the amount of stock and bonds outstanding, etc., and a copy of decision when made. The decision is not yet made and the matter is still pending.

III.

IN THE MATTER OF THE APPLICATION OF THE HERKIMER, NEWPORT AND POLAND NARROW GAUGE RAILROAD COMPANY TO INCREASE ITS CAPITAL STOCK FROM \$120,000 TO \$250,000.

January 20, 1885.

The application for an increase of the capital stock of the Herkimer, Newport and Poland Narrow Gauge Railroad Company from \$120,000 to \$250,000 is granted and the increase approved, the same, by the report of the accountant of the Board, appearing to be necessary for the construction and operation of the road.

JOHN D. KERNAN,
WILLIAM E. ROGERS,
JOHN O'DONNELL,
Commissioners.

IV.

IN THE MATTER OF THE APPLICATION OF THE STEINWAY AND HUNTER'S POINT RAILROAD COMPANY FOR AN INCREASE OF CAPITAL STOCK FROM \$60,000 TO \$250,000.

April 7, 1885.

This application was made to the Board in conformity with section 9, chapter 140, Laws of 1850, as amended by chapter 153, Laws of 1880.

The meeting of stockholders to vote the increase was held on the 24th of March, 1885, due notice of same having been given as required by statute, viz., by personal service and by advertisement in the New York *Evening Post*, this paper having been designated by this Board. The increase asked for was unanimously approved by the stockholders, 599 shares voting out of a total of 600 shares.

The object of the increase of the stock, as alleged by the petitioners, is as follows; Long Island City has the following horse railroads within its limits, viz.:

The Steinway and Hunter's Point railroad.
The Broadway and Bowery Bay railroad.
The Jackson and Steinway Avenue railroad.
The Steinway Avenue and Bowery Bay railroad.
The Astoria and Hunter's Point railroad.

These roads radiate from Hunter's Point in a northerly and easterly direction. Until within a comparatively short time, they have been under different managements, badly equipped and poorly run. Recently, however, the stock and bonds of these roads have been acquired by Mr. William Steinway, with the exception of a small portion of the securities of the Astoria and Hunter's Point railroad. Mr. Steinway

is also a large owner of real estate in the north-east portion of the city, where his piano factory is situated. He desires to improve the railroad facilities to this property, and incidentally those of the whole city.

Since acquiring these railroads, the cash expenditures made for improvements and betterments (including \$4,624.94 loss in operation), have been \$90,931.13.

The stockholders ask that the Board approve of an increase of stock of the Steinway and Hunter's Point railroad, from \$60,000 to \$250,000, for the purpose

First. Of exchanging the stock so created for that of the various roads leased by it, in accordance with chapter 254 of the Laws of 1867, as amended by Laws of 1879, chapter 503, with the view of absorbing and consolidating the companies under one management as is therein provided. The proposed exchange of stock is unanimously petitioned for by the stockholders of the respective corporations, and according to the following terms, to-wit:

\$50,000	To be exchanged for Broadway and Bowery Bay stock of....	\$30,000
15,000	To be exchanged for Jackson and Steinway Avenue stock of.	40,000
75,000	To be exchanged for Astoria and Hunter's Point stock of....	75,000
\$140,000	To be exchanged for total stock of above roads of	\$145,000

Second. The remainder of the stock is to be disposed of, as follows :

\$18,000	To be sold for cash and the proceeds used to pay the floating debt of the Astoria and Hunter's Point railroad.
10,000	To pay for improvements on Astoria and Hunter's Point railroad.
5,000	To pay for new car-house.
17,000	To retire bond and mortgage of like amount held by Mr. Steinway for money advanced
\$50,000	
140,000	For stock of roads as shown above.
\$190,000	Total increase asked.

The Board caused an examination of the books and accounts of the various companies to be made by its accountant, to ascertain therefrom the cost of road and equipment, the amount of stock and bonds outstanding, and other facts bearing upon the subject. This report is before the Board, and shows as follows:

Steinway and Hunter's Point Railroad Company.

Capital stock.....	\$60,000
Bonds, first mortgage.....	60,000
Bonds, second mortgage.....	17,000
Eleven miles of single track.	

Broadway and Bowery Bay Railroad Company.

Capital stock.....	\$30,000
Bonds, first mortgage.....	45,000
Six miles of single track.	

REPORT OF THE RAILROAD COMMISSIONERS.

Jackson and Steinway Avenue Railroad Company.

Capital stock	\$40, 000
Bonds.....	40, 000
Two and one-half miles of single track.	

Steinway Avenue and Bowery Bay Railroad Company.

Original capital.....	\$50, 000
Of which there was exchanged for \$15,000 capital of Astoria and Hunter's Point Railroad Company.....	20, 000
Capital outstanding.....	none.
Capital subject to issue.....	30, 000
Bonds.....	20, 000
Two miles of single track.	

Astoria and Hunter's Point Railroad Company.

Capital stock.....	\$75, 000
Bonds.....	25, 000
Five miles of single track.	

The construction accounts of the above roads had been so defectively kept, until acquired by the present owners, that it is impossible to say how nearly the amount of stock and bonds outstanding represent the real cost of road and equipment. Under the proposed reorganization, however, the whole system will have twenty-six and one-half miles of single track —

The total stock will be.....	\$190, 000
The total amount of bonds.....	280, 000

being equal to an average of \$17,732 per mile of stock and bonds to represent the cost of road and equipment. While the total amount of stock will show an increase of \$15,000 there will be retired \$17,000 of bonds, making a reduction, therefore, of \$2,000, in the outstanding obligations of the company.

Since \$250,000 is less than the present outstanding stock and indebtedness to be retired and canceled therewith, it would be a waste of time to further endeavor to ascertain the actual cost of the various properties. When it becomes important to fix the amount of such cost it can only be done by appraisal.

After a careful consideration of all the circumstances, and in view of the public benefit that will be derived from the consolidation of the companies under one responsible management, the Board hereby approves of the increase of the capital stock of the Steinway and Hunter's Point Railroad Company from \$60,000 to \$250,000, to be disposed of in the manner hereinbefore set forth.

By the Board.

WILLIAM C. HUDSON,

Secretary.

V.

APPLICATION OF THE SIXTH AVENUE RAILROAD COMPANY FOR THE APPROVAL OF THE BOARD TO AN INCREASE OF ITS CAPITAL STOCK FROM \$750,000 TO \$1,500,000.

June 23, 1885.

In a decision made on November 18, 1884, the Board refused this application for the reason that the stock and bonds of the road already amounted to \$1,250,000, while the cost of construction and equipment did not exceed \$1,323,644.23. Items amounting to \$525,000 were rejected by the board as part of the cost of construction and equipment because the road had no books or vouchers by which to prove them.

On December 1, 1884, the company presented a petition asking that the decision of the Board be opened and the application be reconsidered, and that the applicant be permitted to present further evidence obtained by it in reference to the items of the construction and equipment account rejected by the Board. This application was granted; the evidence has been submitted and considered. The accountant of the Board has examined the accounts, presented the vouchers accompanying the same and has reported thereon. The items added to the cost of construction and equipment as reported to the State Engineer on September 30, 1853, and contained in Schedule A, hereto attached, are proved to be correct by entries in the minutes of the board of directors, reports made to meetings of stockholders, and by affidavits submitted, except the following, which are not proper items in the construction account: Taxes, etc., on unimproved property, \$71,938.33. This belongs to operation. Nine hundred and sixty-eight horses at \$5 each, \$4,840. The vouchers produced show that the amount claimed as the average cost of horses is at least \$5 each too high. Manure company, \$6,280. This is not a proper item to charge to cost of road and equipment. It is an investment by the company in an outside enterprise, and is not part of cost. Implements, tools, etc., \$50,000. The implements, tools, etc., are in and about the stables, shops, etc., and the Board is asked to estimate them at \$100,000. From the best information the Board can obtain, a very liberal allowance for this item would be \$50,000. Vouchers have not been produced to sustain \$3,398.85 of the amount charged as the cost of engines, boilers, etc. Purchase of Sixth avenue stage line, \$14,000. This is not proper as an item of cost of construction. The horses, harness, etc., purchased from the Sixth Avenue stage line are included in the cost of equipment.

The cost of the road and equipment as claimed, and as shown by Schedule A, is as follows:

Road-bed and superstructure.....	\$621,240 64
Land, buildings, etc.....	999,845 68
Cars and other vehicles.....	159,976 15
Horses	218,481 21
Manure company int.....	6,280 00
Purchase of Sixth Avenue stage line.....	14,000 00
Implements, tools, etc.....	100,000 00
	\$2,119,773 68

Items disallowed.

Taxes, etc.....	\$71,938 33	
Horses.....	4,840 00	
Manure company.....	6,280 00	
Tools, etc.....	50,000 00	
Boilers, etc.....	3,898 85	
		\$126,457 18
Cost of road and equipment....	\$1,998,316 45	
The stock of the road is.....	\$750,000 00	
The bonds are.....	500,000 00	
		\$1,250,000 00

The increase of the stock to \$1,500,000 will give to the stockholders stock to represent the amount of earnings which have gone into construction and which belonged to them as dividends. The application should, therefore, be granted upon condition that the scrip or debt certificates now outstanding to the amount of \$750,000 be retired and canceled. The Board does not intend to approve of such scrip, or to modify its former opinion in regard thereto. The railroad statutes do not design that the capital of a road held by stockholders shall be represented by any thing except stock. In 1882 the general act was amended so as to forbid stock to be increased without the approval of this Board. This was to stop the watering of stock and to prevent its increase unless its proceeds were needed for construction and equipment, or unless stockholders were entitled to it to represent earnings which had gone into construction. If, instead of increasing stock, as provided by the statute, companies can at will issue a form of "scrip" or "debt certificate" upon which dividends shall be paid as upon stock, and which shall be transferable and convertible into stock when the stock is increased, then the amendment of 1882 is useless to cure the evils at which it was aimed, and an easy way to evade its provisions has been discovered. The Board has occasion to know that this practice is becoming quite general. It ought to be forbidden by a penal statute.

CONCLUSION.

The Board approves of the proposed increase of the capital stock of the Sixth Avenue Railroad Company from \$750,000 to \$1,500,000. The approval is upon the understanding that the outstanding scrip or debt certificates amounting to \$750,000 shall be retired and canceled.

By the Board.

WILLIAM C. HUDSON,

Secretary.

SCHEDULE A.

ROAD-BED AND SUPERSTRUCTURE.

September 30, 1853.	
Construction cost, as shown by State Engineer's report September 30, 1853 (accepted by Railroad Commissioners).....	\$512,637 75
Cost of extension, as shown by reports to shareholders, dated January 1, 1855 (pp. 4, 14), track extended on Sixth avenue to and through Forty-fourth street and through the company's property to Forty-third street, and through Forty-third street to the avenue, with single, double and triple track... ..	\$11,489 45
February 1, 1857, p. 7.	
Payments made on extension of the road from Forty-fourth to Forty-ninth street, the point to which the avenue is prepared for laying the rail.....	3,086 80
February 1, 1858, p. 5.	
Extending the track in Sixth avenue to Forty-ninth street, through Vesey street to Broadway and along Forty-third street into additions to depot.....	9,277 11
February 1, 1859, p. 5.	
Completing track to Fifty-ninth street (Central Park).	9,555 53

Cost of Other Betterments.

1868-1872.	
Relaying entire track, curves and switches, with new steel rail, sixty pounds per yard, and many new curves (report Feb. 8, 1866, p. 5), difference in cost of iron and steel, 754 2-7 tons at \$70 (gold at \$1.40); rails bought at \$1.20 gold, iron rails at about \$70..	52,794 00
Belgian pavement on Sixth avenue, Carmine street to Forty-second street, 1860 (city assessment, one-third to Sixth Avenue Railroad Company).....	20,000 00
1868, 1872 and 1883.	
Eight new steel curves at depot, 600 feet at \$4.....	2,400 00
	108,602 89
Total	\$621,240 64

LAND, BUILDINGS, ETC.

September 30, 1853.	
Construction cost, as shown by State Engineer's report, dated September 30, 1853 (accepted by Railroad Commissioners)	\$147,867 12

Cost of Additions and Improvements, as Shown by Reports to Shareholders.

February 1, 1856, p. 24.	
Mortgage paid off September 15.....	\$2,803 27
Erecting workshop and offices March 1.....	1,568 03
February 1, 1857, pp. 7, 14.	
Payments on lots purchased.....	7,100 00
Flagging sidewalk	553 76
New shed	118 25
Plastering offices, etc.	445 36
February 1, 1858, pp. 5, 6, 12.	
Additions to depot, 25x100.....	4,389 08
Mortgages paid off	3,000 00

Labor on tunnel.....	\$247 83
Fencing Forty-third street.....	18 77

February 1, 1859, pp. 5, 7.

Mortgages paid off (after deducting avails of lots sold)	3,708 04
Drive-way loft	183 40
Flagging walk	44 56

February 8, 1866, p. 5.

New stables and improvements.....	80,374 41
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Purchases of Real Estate as Shown by State Engineer's Reports.

1859-1868.

Accepted by Railroad Commissioners.....	296,989 75
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Purchases of Real Estate, not on State Engineer's Reports, as per Deeds Dated:

December 7, 1870, bl'k 528, 584.....	16,000 00
March 18, 1871, " 528, 59.....	16,500 00
March 22, 1871, " 528, 58.....	16,765 00
April 29, 1871, " 528, 14.....	17,000 00
December 7, 1870, " 543, 70.....	30,000 00
Cost of fitting up (mason work, painting, plumbing, etc.), 14, superintendent's house, as per J. B. B. 1871	1,000 00

Cost of Betterments, as shown by Directors' Minutes of Dates, viz.:

January 6, 1870.

New building, 125x82; raising old part of depot one story; grain elevator, etc.....	55,177 25
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April 4, 1873.

Erecting new building south side Forty-third street; another story on depot building.....	107,142 23
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January 8, 1874.

Add one story to depot, Sixth avenue, front, 200x48, etc.; one story brick shed, south side Forty-third street, 36x100.....	23,092 65
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Cost of Betterments as shown by Vouchers 1874-1876, on File.

New building at Fifty-ninth street and extension of depot on Forty-third street, etc.....	39,420 10
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1872.

Engines and boilers in place; two forty-inch mills in place of one twenty-inch mill; hay cutter and conveyor, belts, shafts, etc.....	13,000 00
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1858-1868.

City assessments for sewers, etc. (vouchers accepted by Railroad Commissioners).....	34,509 76
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1859-1868.

Taxes on unimproved property at Central Park, per vouchers.....	71,938 33
Cash-book entries, 1874-1883.....	8,938 68

\$351,978 51

Total..... \$999,845 63

EQUIPMENT.

Cars and Other Vehicles.

Construction cost, as shown by State Engineer's report, September 30, 1853 (accepted by Railroad Commissioners) \$48,108 15

Cost of Additions.

Seventy-six cars (accepted by Railroad Commissioners)	\$90,000 00	
Snow sweeper, plows, trucks, wagons, etc.....	8,795 00	
Harness for cars, plows, sweepers, trucks, etc., halters.	13,073 00	
		111,868 00
		<u>\$159,976 15</u>

Horses.

Construction cost as shown by State Engineer's report, September 30, 1853.....	\$49,081 21	
Increase to September 30, 1853, 968 horses, at \$175..	169,400 00	
		<u>\$218,481 21</u>

RECAPITULATION.

Road-bed and superstructure.	\$621,240 64
Land, buildings, etc.	999,845 63
Cars and other vehicles.....	159,976 15
Horses	218,481 21
	<u>\$1,999,493 63</u>
Manure Company	6,280 00
Purchase of Sixth Avenue stage line	14,000 00
Implements and tools, etc.....	100,000 00
	<u>\$2,119,773 63</u>

VI.

IN THE MATTER OF THE APPLICATION OF THE ALBANY RAILWAY
(STREET) FOR THE APPROVAL OF THE BOARD FOR AN INCREASE
OF CAPITAL STOCK FROM \$200,000 TO \$250,000.

August 15, 1885.

By Commissioner ROGERS :

The preliminary steps in this matter, as required by section 9 of chapter 140 of the Laws 1850, as amended by chapter 133 of the Laws of 1880, have been taken and the proceedings duly certified to this Board. The section referred to is as follows :

§ 9. In case the capital stock of any company formed under this act is found to be insufficient for constructing and operating its road such company may, with the concurrence of two-thirds in amount of all its stockholders and the written approval of the State Engineer and Surveyor until such time as there shall be appointed a Board of Railroad Commissioners, and after that with the written approval of such Board, increase its capital stock from time to time to any amount required for the purpose aforesaid. Such increase must be sanctioned by a vote in person or by proxy of two-thirds in amount of all the stockholders of the company at a meeting of such stockholders, called by the directors of the company for that purpose by a notice in writing to each stockholder, to be served on him personally or by depositing the same properly folded and directed to him at the post-office nearest his usual place of residence, in the post-office at least twenty days prior to such meeting. Such notice must state the time and place of the meeting and its object, and the amount to which it is proposed to increase the capital stock.

The proceedings of such meeting must be entered on the minutes of the proceedings of the company, and thereupon the capital stock of the company may be increased to the amount sanctioned by a vote of two-thirds in amount of all the stockholders of the company, as aforesaid. A copy of such notice shall also be published within the county where the main office of such corporation shall be located, once a week for four weeks prior to such meeting, in a newspaper to be designated by the State Engineer and Surveyor, until such time as a Board of Railroad Commissioners shall be appointed, and after that time by such Board, and in no case and under no circumstances shall any railroad company of this State increase its stock except upon the notice and with the approval herein provided. Any officer or director of any railroad company violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment not less than six months, and by a fine not exceeding one thousand dollars. (Thus amended by L. 1880, ch. 133.)

At a meeting of the board of directors of the railway, held on the 29th May, the following resolutions were passed:

"*Resolved*, That recognizing the right of the public to demand of the Albany railway greater and better accommodations to meet the increase of travel upon its roads, the board of directors are of the opinion that the stables and car-houses should be consolidated and new ones erected on the property belonging to the company on Bradford street, and those on South Pearl street abandoned. That a change stable should be erected in some proper location; that wherever it is practicable, double tracks should be laid and some of the present tracks extended: that additional equipment should be purchased, and as far as possible the speed and frequency of trips should be increased.

"*Resolved*, That to pay the mortgages on real estate and accomplish these objects the board is of the opinion that it will require the expenditure of at least the sum of \$50,000. And for the purpose of obtaining the required means we would recommend that the stock be increased that amount and sold to the stockholders *at par* in proportion to the amount of stock held by each, and the proceeds be applied *solely and exclusively* to paying for the improvements mentioned in the foregoing resolution and the payment of the mortgages on the stable property."

The question was submitted to the stockholders at a special meeting called for the purpose on the 2d July, when all present voted in the affirmative, representing fifteen hundred and ten shares out of a total of two thousand.

A hearing was given by the Board of Railroad Commissioners on July 14th, and again on July 21st, to the counsel and representatives of the railroad company.

The books and accounts of the company were examined by the accountant of the Board, and his report is attached hereto.

It was submitted to the authorities of the road and found correct, with the exception of three comparatively unimportant items mentioned hereafter.

The results in brief to June 1st are as follows :

Capital stock outstanding.....	\$200,000 00
Funded debt outstanding.....	111,400 00
	\$311,400 00
Total cost of road and equipment	266,410 78
Leaving amount now outstanding for which no cash has been received or earnings expended in lieu thereof.....	\$44,989 22

It will thus be seen that there is a difference of \$44,989.22 between the par value of the stock and bonds and the cost of the road and equipment as found by the accountant of the Board.

This sum represents what is popularly termed "water."

It appears that the company issued stock in 1869 and 1873 to the amount of \$74,020, for which it received no cash equivalent. It subsequently used its earnings to the extent of \$29,590.03, for construction and equipment, thus "sopping up" the water to that extent, leaving but \$44,430.47 of capital stock for which no cash equivalent was paid. The net discount on the bonds sold amounted to \$558.75, which added to the \$44,430.47 make \$44,989.22, as above stated.

The company at the second hearing claimed that this amount should be further reduced in the following items :

Nine horses of the value of.....	\$1,440 00
Two cars of the value of.....	1,450 00
Eight sets harness of the value of.....	240 00
	\$3, 130 00

for the reason that in making up the equipment account the accountant of the Board took the number of cars, horses and harness which the company had on hand on the 30th day of September, 1884, rather than that on June 1st, 1885.

Granting the above it would leave \$41,859.22 as the difference between the par value of the stock and bonds and cost of road and equipment.

This Board, as a general rule, is unwilling to give its consent to the increase of capital stock where the stock and bonds outstanding are materially in excess of the cost of road and equipment. But this is a case where an exception can be properly made.

It is notorious in Albany that the public need better and more frequent service on the street car lines, all of which are operated by this company except that on Broadway.

It can only be secured by the company's raising funds wherewith to furnish it.

It is confidently asserted by the counsel of the company that an assessment upon the stock, under section 7 of the general act, would be resisted by the stockholders, their liability for further payments being barred by the General Statute of Limitations.

Were it not that there are already four mortgages on the property the money could be raised by the directors bonding the road without asking the consent of the Railroad Commissioners, or even of the stockholders. The company prefer, however, what is much the wiser and more conservative course, namely, to issue additional stock; and this seems to be the only method practically available.

The public will be the gainers in securing better service, and cannot suffer in any possible way. The objection so often raised that if additional stock be issued the public will be taxed to pay dividends on watered stock, does not apply, for the reason that the rates of fare may be reduced under section 33 of the general act when more than ten per cent is earned on the *capital of the corporation actually expended*; not upon the nominal face value of the stock and bonds.

Nor can the public be induced to buy the stock under any false pretenses, for this report clearly and fully sets forth the financial condition of the property.

When the Legislature, in 1880, provided that capital stock of corporations should not be increased without the approval of the Board of Railroad Commissioners, it lodged a discretion in that Board which should be exercised wisely. It surely did not intend that the Board should stand as an obstacle in the way of future railroad building or improvement where public necessity clearly demands it, and where the public *can in no possible way be damaged* by an increase of stock.

The stock to be issued in this case is to be paid for *at par*, and the proceeds devoted to a much-needed public improvement.

The stock is not only not to be further watered, but additional cash is to be put in it.

As justly stated by the counsel of the road, "it is difficult to see why hundreds of people should be deprived for years of the facilities of comfortably reaching their homes, after a hard day's work, because of the sins of the directors of 1873 (in watering the stock), sins which cannot be imputed to the present directors."

RECOMMENDATIONS.

For the above reasons I approve of the proposed increase of stock of the Albany railway, to be disposed of as set forth in the resolution of May 29, 1885, of the board of directors of said railway.

Attest.

WILLIAM E. ROGERS.

WILLIAM C. HUDSON, *Secretary*.

Commissioner KERNAN — As stated by Commissioner Rogers there is outstanding at least \$41,300.47 of stock for which the company never received any equivalent, either in money or property. He adds, "the Board as a general rule is unwilling to give its consent to the increase of capital stock where the stock and bonds outstanding are materially in excess of the cost of road and equipment. But this is a case where an exception can properly be made."

I cannot agree to this conclusion, because the reasons cogently presented by the counsel for the applicant do not satisfy me that such course would be in accordance with the design of the statute, vesting in this Board the duty of approving of the increase of capital stock. Prior to 1880 there was loud complaint against the "watering" of stock. In that year the Legislature undertook to remedy this evil by amending section 9 of the general act, so as to provide in substance that "in case the capital stock of any company formed under this act shall be insufficient for constructing and operating its road, such road may, etc., increase its capital stock, from time to time, with the approval of such Board," meaning this Board when it should be created.

The view of the design of this amendment urged by the counsel for the complainant is ingenuous and worthy of consideration. He insists that under this section as amended, the Board has nothing to do with past watering; that its only duty is to prevent it in future by seeing to it that the proposed increase is in fact needed for construction or operation. I do not so understand the statute. The Board is to approve of an increase when the existing "capital stock is insufficient for construction and operation." So long as there exists stock, either unissued or issued to stockholders without the payment of an equivalent to the company, it cannot be said that the capital stock is insufficient for construction, etc.

But the counsel argues that this stock is not available as an asset, because its stockholders cannot now be made to pay for it. This may be conceded as to any direct assessment thereon, or payment therefor, because of the statute of limitations, or for other reasons. There is a practical way, however, of compelling the "sopping" up of the water before a further increase shall be approved. The State can refuse its consent to an increase until the company shall devote earnings enough to construction to pay the company for the stock wrongfully issued. This I think to be the true intent and meaning of the statute. There is no injustice in this to present stockholders, even assuming them all to have acquired their stock in good faith since the wrongful issue. The duty of permitting earnings sufficient to "sop" up the water, to be diverted from dividends to construction, is one which ought to follow the stock, and is, I think, a risk fairly assumed by purchasers. In other words as to this question, the purchasers take the stock *cum onere*, so far as to be forbidden to further increase by permission of the State until they have done so. It is asserted, however, that this application should be granted as an exception to the general rule for the following reasons:

The present street car service is insufficient, and the public need and ought to have improved facilities; to make these improvements it requires money and there is no way to raise it at once except by this issue of stock. The counsel says: "It is difficult for us to see why

hundreds of people should be deprived of comfortably reaching their homes, after a hard day's work, because of the sins of the directors of 1873, sins which cannot be imputed to the present directors."

Were the facts as stated, the Board would have to decide the troublesome question presented, of whether under such circumstances an exception ought to be allowed. Exceptions to such rule are dangerous as precedents. I cannot agree, however, that it is shown in this case that "there is no other way to raise this money at once except by this issue of stock." The money can apparently be raised, without the permission of this Board, by mortgaging the road and its franchises under subdivision 10 of section 28 of the general act. The mere fact that there are four mortgages already on the road does not preclude the idea of the practicability of a further mortgage. An examination of the financial condition of the road and of its earnings certainly does not lead to any such conclusion :

Total cost of road and equipment.....	\$266,410 73
Funded debt.....	111,400 00
Amount paid in by stockholders and available as security...	<u>\$155,010 73</u>

The amount available as security has an earning capacity as shown by the last annual report, which greatly enhances its value:

Total receipts for year ending September 30, 1884	\$188,839 12
Total expenses of operation	\$104,209 23
Interest on funded debt.....	7,869 00
	<u>112,078 23</u>
Amount applicable to dividends...	<u>\$26,761 90</u>

It thus appears that the road can now earn a very substantial return upon its stock, and hence a mortgage would be ample security for a further \$50,000.

The resolution of the board of directors before this Board states that the new stock is to be sold to the stockholders at par, and we are assured that it will so be taken. If new stock is desirable at par, it is difficult to understand why a mortgage, which takes precedence of stock as a lien, cannot be successfully negotiated.

It is stated that it is a wiser and more conservative course to issue stock than to mortgage. So far as the stockholders are concerned this is true, but the very advantages to be thus obtained are not, as I view it, to be had by the stockholders, until they pay up to the company the amount outstanding on the present stock out of earnings. An inquiry upon the argument presents the idea that the road should negotiate a mortgage for the money, to be paid by the creation of a sinking fund out of the earnings. This is perfectly proper under the statute. The road has commendably already "sopped" up \$29,590.03 of water by the application of earnings to construction. Since, therefore, the road can apparently raise the money it needs by mortgage, and can pay the same by means of a sinking fund to be created out of its ample earnings, thus in time and without hardship, eliminating the water, it ought, in my judgment, to adopt that course. Otherwise it

does not seem that any one except the company will be responsible for the failure of the company to furnish to the public the needed improved facilities. It is fair to say that no responsibility for the wrongful issue of stock attaches to the present management of the road. It follows from these views that the application must be denied.

JOHN D. KERNAN,

Commissioner.

Attest:

WILLIAM C. HUDSON,

Secretary.

By Commissioner O'DONNELL — This is an application on the part of the Albany (street) railway for permission to increase its capital stock \$50,000. The counsel for the road, in addition to the reasons set forth in the application of the road, makes a strong plea that the necessities of the public demand increased facilities for travel, and that an increase of stock, to be sold at par to the stockholders, is the only feasible way to raise the money for the needed improvements and for the extension of the road.

That this Board has discretion lodged with it, as stated by Commissioner Rogers, to approve an increase of capital stock to raise money to extend its road may possibly be true, but if the Legislature did intend to lodge such power in the Board, it is a most important trust and should be exercised wisely and with the utmost caution. I am inclined to doubt the position assumed that the Board has the discretion claimed. Entertaining such doubts, I do not believe it wise to allow a road to increase its capital stock on its own assertion, that it proposes sometime in the *future* to use the proceeds of such stock to extend its road or to make other improvements. A simple change of the directors or other contingencies arising might change the policy of the road, leaving the stock in the hands of innocent holders, who, in turn, would demand of the public such rates of fare as to pay a fair dividend upon such stock.

It is not a good answer to say that the public are protected by the fact that the Legislature *may* at any time reduce the earnings of a road when its earnings shall have exceeded ten per cent upon its "capital actually expended." The modern idea that "capital actually expended" includes bonded indebtedness, mortgages given to cover fraudulent discounts, interest on borrowed money, legal and lobby services, etc., etc., with the fact that Legislatures in the past have generally served railroads instead of the public, seems to make the duty imperative on the Board to withhold its approval of an increase of capital stock, except it is shown affirmatively that the capital stock does not represent all of the money that has been used (*actually paid out*) in constructing such road.

But it appears by the resolution of the board of directors that a part of the money received for the proposed capital stock is to be used to pay certain mortgages as follows:

"*Resolved*, That recognizing the right of the public to demand of the Albany railway greater and better accommodations to meet the increase of travel upon its roads, the board of directors are of the opinion that the stables and car houses should be consolidated and new ones erected on the property belonging to the company on Bradford street, and those on South Pearl street abandoned. That a change stable should be erected in some proper location; that wherever it is

practicable, double tracks should be laid and some of the present tracks extended; that additional equipment should be purchased, and as far as possible the speed and frequency of trips should be increased.

"Resolved, That to pay the mortgages on real estate and accomplish these objects the board is of the opinion that it will require the expenditure of at least the sum of \$50,000. And for the purpose of obtaining the required means we would recommend that the stock be increased that amount and sold to the stockholders at par in proportion to the amount of stock held by each, and the proceeds be applied solely and exclusively to paying for the improvements mentioned in the foregoing resolution and the payment of the mortgages on the stable property."

Any increase of capital stock to pay mortgage indebtedness is simply "water," representing nothing but liabilities of the road for its borrowed money. These liabilities, like the stockholders' personal notes or mortgages, must be paid, but they are in no sense the "capital actually expended" in constructing the road. The capital stock already issued exceeds its cost over \$40,000, and an addition to pay mortgages would simply increase this large amount.

There can be no doubt, as stated by Commissioner Kernan, of the ability of the road to raise money without issuing capital stock, the fact that the present stockholders being ready to take the stock at par, as stated by counsel, being conclusive on this point, so that the public in any event will not suffer from the adverse action of the Board.

After such improvements have been made it is a fair question to present to the Board whether an increase of capital stock to cover such improvement should be allowed. I am inclined to think that the Board would be justified in allowing such increase.

If this Board succeeds in preventing watering railroad stock in the future, it will have discharged a most important duty to the public, but I doubt its power to seek to remedy past wrongful increase of stock by stopping the necessary railroad improvements demanded by the public. Such remedial action properly belongs to the Legislature and not to the Board.

For the present the application of the Albany (street) railroad for an increase of capital stock to \$50,000, should be denied.

JOHN O'DONNELL,
Commissioner.

Attest:

WILLIAM C. HUDSON,
Secretary.

The application is therefore denied.

[SEAL]

WILLIAM C. HUDSON,
Secretary.

ACCIDENTS.

I.

IN THE MATTER OF AN ACCIDENT ON THE ROCHESTER AND PITTSBURG RAILROAD, IN THE EARLY MORNING OF NOVEMBER 17TH, 1884, THROUGH THE PARTING OF A TRAIN BY WHICH D. J. KILLEEN WAS KILLED.

The facts attending the above accident, as developed by testimony taken before Commissioner Rogers, were as follows:

Freight and coal train No. 46, while going down a grade of eighty-nine feet to the mile, just west of West Valley, parted either from a pin jumping out or from a sudden jerk breaking a link. The break was not at first discovered. The rear part of the train consisted of three box cars, three coal cars (gondolas), and one caboose car. It got under such rapid headway, that the two brakemen and conductor left thereon were unable to stop it, and it collided with the forward part of the train just east of Riceville, destroying four cars and injuring more or less nine others, and killing one of the brakemen.

The train consisted of thirty-eight cars in all and was manned by three brakemen and a conductor. So far as the testimony showed, they performed their duty as well as they could under the circumstances. The rails were frosty, and the engineer testified that he was unable to prevent the train going at a higher rate of speed than the rules of the company provided, namely, twelve miles an hour.

The Board is of the opinion that on roads with such steep gradients as those on the Rochester and Pittsburg, three brakemen are too few to keep under thorough control so long and heavy trains as those run, and recommends that at least four brakemen be required to accompany such trains.

It also appears from the testimony that box cars were placed in the train intermediate between coal cars, and that the brakeman was afraid to get off from the box cars on to the coal cars, in consequence of the high rate of speed that the train had suddenly acquired. The Board is of the opinion that in making up the trains the box cars should be put altogether at one or the other end of the train, and so recommends.

The Board also suggests to the Rochester and Pittsburg railroad to consider the propriety of attaching two chains to each coal gondola long enough to allow for the curvature of the track, so that if the link and pin connection fails, the chains will come into action.

By the Board.

WILLIAM C. HUDSON,
Secretary.

II.

IN THE MATTER OF FOUR COLLISIONS ON THE ELEVATED RAILROADS OF NEW YORK CITY ON THE MORNING OF DECEMBER 30, 1884, BY WHICH MISS LELA HARRIS, PASSENGER, AND JOHN BELL, ENGINEER OF ENGINE NO. 208, WERE INJURED.

The facts and circumstances attending the above collisions, as developed by testimony taken before Commissioner Rogers, and by affidavits of witnesses submitted by the Manhattan Railway Company, were as follows: On the morning of December 30th, there was a dense fog, so dense that above Seventy-fifth street on the Second and Third avenue roads, it was not possible to see any object more than twenty or thirty feet. This fact is proved beyond any question. It is the rule of the road on such occasions to station men on the platforms of certain stations whose duty it is to inform the engineer of each incoming train how many minutes have elapsed since the departure of the preceding train. The rules as presented to the Board by the general manager, Col. Hain, prescribed for the Second avenue line, twenty-three men; for the Third avenue line, forty-two men; for the Sixth avenue line, thirty-six men; for the Ninth avenue line, twenty-five men.

FIRST COLLISION ON SECOND AVENUE LINE.

Train headed by engine No. 87, John Lyons, engineer, and John A. Hamlin, conductor, going north, arrived at the One Hundred and Eleventh street station at 6:59 A. M., six minutes late. Just as it was leaving the station it was run into by the succeeding train headed by engine No. 79, Chas. F. Peel, engineer, and James E. Goewey, conductor. Peel testifies that when he left the Ninety-second street station the fog signal-man informed him that the preceding train was three minutes ahead; that there was no fog signal-man at the One Hundred and Fifth street station. Consequently he had no knowledge of the position of the train ahead of him between Ninety-second street and One Hundred and Eleventh street.

No one was hurt, but some damage was done to the engine, and a temporary obstruction to travel caused.

Jno. Ferdinand, the fog signal-man at One Hundred and Eleventh street, immediately after the collision ran back to stop any succeeding trains; he found no one at One Hundred and Fifth street and continued to Ninety-second street where he notified Jas. P. Malloy, the fog signal-man of the *south*-bound track, he being the first man he met. Malloy warned Daniel Reilly, the fog signal-man of the *north*-bound track to stop all trains, and then returned promptly to his own post. In the case of any detention it is the duty of the rear guard of each train to hurry back and warn the succeeding train.

William T. Burgess was the rear guard of the colliding train at One Hundred and Eleventh street. He was told by the conductor of this train to go back. Whether he did or did not does not appear from the testimony. If he neglected this duty, however, no bad result followed, as the succeeding train was stopped at Ninety-second street through the efforts of Jno. Ferdinand.

SECOND COLLISION ON SECOND AVENUE ROAD AT NINETY-SECOND STREET.

Train headed by engine No. 202, John T. Taylor, engineer; James Nixon, conductor, having been stopped at Ninety-second street, the rear guard was sent back to flag the next train, which was done. This was headed by engine No. 207, Wm. H. Ferguson, engineer; E. C. Loons, conductor.

Loons, in turn, then went back with his rear guard Barry to flag the next train.

They claim to have gone back about 180 feet from the rear of their train (the last car of which extended beyond the station platform). They testify, however, that the succeeding train, headed by engine No. 208, Jackson Bell, engineer, and Abram Hotaling, conductor, passed them at a high rate of speed (from estimates, fifteen miles an hour), and collided with great force with the preceding train, pushing it forward about a train's length.

There is a direct conflict between the testimony of Loons and Barry on the one side and Bell and his fireman, John Higgins, on the other as to the distance that Loons and Barry went back, and as to the rate of speed at which Bell was moving; Bell and Higgins claiming that Loons and Barry were not more than a few feet from the rear of the train, and that he, Bell, was going at but five miles per hour, whereas Loons and Barry claim that they went back quite far enough to have warned Bell in time, had he been going at a prudent rate of speed. From the force with which Bell collided and from the admission of his conductor, Hotaling, that they were going at the usual rate of speed, between Eighty-sixth street and Ninety-second street stations, the Board is of the opinion that Bell was going decidedly faster than was prudent or safe in so dense a fog. The Board is also of the opinion that Loons and Barry should have gone further than they did, but do not feel justified in censuring them, as there is some doubt on the question. It is certain that Loons did flag the next train and prevented a further collision, showing that he was trying to do his duty.

It also appears that Geo. Anderson, supervisor of Second avenue line, arrived at the Ninety-second street station, on train headed by engine No. 207. He testifies that, finding train headed by engine No. 202 at the station, he ordered J. P. Taylor, the engineer, and Nixon, the conductor, to pull ahead, so as to leave room for the succeeding trains. Taylor and Nixon deny this, and Taylor further states that if he had received the order he would not have obeyed it, as he did not recognize Anderson's authority.

It also appears from the list of stations at which fog signal-men should have been stationed that two men should have been at the One Hundred and Fifth street station, whereas in fact none were there.

COLLISIONS ON THIRD AVENUE ROAD.

Train headed by engine No. 97, Hiram Terell, engineer, going south, arrived at One Hundred and Sixth street station at 7:12 A. M., a little late. Trains were running at one and a half minutes interval.

While at the station Terrell's train was run into by the succeeding train headed by engine No. 304, Henry Rex, engineer. Miss Lela Harris, while in the act of stepping from the train to the platform, was thrown down between the car and station platform. Her left leg and thigh were badly bruised. There was but little damage done to engine or train. Rex testifies that he was running carefully, but that the fog was so thick that he got nearer the station than he thought; that there was no bull's eye lantern on the rear platform of the preceding train; also that he had a "*poor vacuum train.*" It was conclusively shown, however, that there was a *train lantern* with a red globe on the rear of the car.

As soon as collision occurred, R. J. Benning, rear guard, ran back to stop next train, headed by engine No. 110, S. J. Henry Howes, engineer. This he succeeded in doing in time to prevent collision.

Rear guard F. J. Mills, of Howes' train, then went out to stop the train next to him, but not in time to prevent a second collision from the next train, headed by engine No. 151, Thoa. Sweetser, engineer. The collision was very slight, however, and no damage done. The employees seem to have done their duty promptly.

CONCLUSIONS.

The collisions were the result of the dense fog and the rules of the company requiring no definite interval of *space* to be maintained between the trains, although the interval of time was only one minute and a half.

While, happily, no loss of life or serious injury to person resulted from the above collisions, the Board is deeply impressed with the danger of running trains on the elevated roads with such short intervals of time between without a "block system" being adopted that will positively forbid one train approaching another nearer than a certain specified distance, say five blocks.

However carefully devised the rules of the elevated roads may be to avoid collision in case of fog or obstruction, they entirely broke down on this occasion. For instance, had engineer Taylor's train pulled out from the Ninety-second street station so as to leave room for the succeeding train, as Supervisor Anderson swears he ordered him to do, a collision might have been avoided. Taylor swears he did not so order him, and even if he had, he, Taylor, would not have obeyed.

Again, there were no men stationed at One Hundred and Fifth street and Second avenue, or at One Hundred and Sixth street and Third avenue, as there should have been, and as the rules of the company require. While it is the duty of the rear guard to go back and notify the succeeding train of a stoppage, and the safety of both trains depend upon this, it appears that Burgess, the rear guard of the colliding train at One Hundred and Eleventh street, did not do so, but the warning was given by Ferdinand, the fog signal-man. The other rear guards appear to have done their duty as to going back, but in some cases not far enough.

It is quite possible that, in the event of a serious collision, the confusion would be so great that no one would go back. The Board is of the opinion, therefore, that means of communication between stations by a mechanical device should be immediately put in operation, by which danger could be indicated without the operator leaving his post. This would not supersede brakeman going back; they should do that, of course, as on all other railroads, as a supplementary

measure of safety. To always enable them to do this, in addition to the many other reasons for their erection, *track walks* should be completed without delay along the whole length of the lines. This was recommended by the Board nearly two years ago, as there was no place on many parts of the structure for workmen to step to avoid the passing trains. The road has erected them in many places, but they should be erected throughout at the earliest moment practicable.

In places the grades are very steep; trains run at intervals of one minute time during the commission hours, when they are very heavy, being crowded to overflowing. They frequently approach within a most alarming proximity; should some unforeseen detention happen and the brakes of the succeeding train fail to respond instantly, a frightful disaster would be inevitable. At the rate of fifteen miles an hour, or one mile, say twenty blocks, in four minutes, there should be an interval of a quarter of a mile, or five blocks, corresponding to one minute's interval in time. The Board is of the opinion that the road should be divided into sections of about five blocks each, which would correspond to the interval between the stations on the Third avenue road; that a mechanical block system should be put in operation by which a signal should be at danger at the beginning of each block so long as a train is within that block and should not be turned to safety until the train had cleared the other end and got into the next block.

The Board appreciates that the adoption of this system would subvert the elevated roads to a very considerable additional annual expense for operation (roughly estimated at \$165,000 per annum), and would, therefore, hesitate to recommend it were it not impressed with the conviction that in no other way can the roads be operated with safety to the traveling public.

The Board does not deem it necessary to specify the details of working such a system, but is satisfied of its entire practicability, and recommends that the Manhattan Railway Company devise such a system, submit it to this Board for approval, and then put it in operation. Should the road desire a hearing with reference to the above recommendation, it will be granted, upon application, within ten days.

By the Board.

WILLIAM C. HUDSON,

Secretary.

In reference to the above recommendation a protest was received from the Manhattan Company to the following effect:

MANHATTAN RAILWAY COMPANY, }
No. 71 BROADWAY,
NEW YORK CITY, February 9, 1885. }

WILLIAM C. HUDSON, Esq., *Secretary Board Railroad Com's, Albany, N. Y. :*

DEAR SIR. — I have before me the communication of the Board of Railroad Commissioners, of January 14, 1885: In reply thereto I desire to submit some considerations for the judgment of the Board, together with the protest of the Manhattan Railway Company.

I beg leave to call your attention to the three statements additional to the testimony taken upon investigation by Commissioner Rogers, from which statements I

suggest that it conclusively appears that guard Barry of conductor Goewey's train, which collided with train preceding, flagged the following train. This collision is designated as collision No. 1. It also appears by these statements as well as by the testimony taken before Commissioner Rogers, that succeeding trains had been informed of the state of affairs by fog-man Ferdinand. As no other collisions took place, it did not seem necessary for us to go into the question whether or not Burgess had done his duty.

Taking into consideration the facts that there are no tunnels upon the lines of the elevated railroad; that the lines of road have but few curves and are straight for such long distances that trains under ordinary circumstances can be seen by the engineers of following trains, it is evident that the block system suggested by the Commissioners serves its best purpose to prevent collisions in times of fog. I judge from the communication of the Board that the condition of fog is that, in the minds of the Commissioners, in considering the question of the block system.

Possibly the Commissioners have overlooked the fact that there are very few days in the year when fog prevails in the city of New York, and generally fogs prevail only for a few hours, upon the days on which they make their appearance.

The best estimate of the expenses that I have been able to obtain if adopting the recommendations of the Commissioners, indicates that the construction account would be \$297,610; material for operating, \$5,400, and the expenses for labor, \$217,845 — say for the expense for the first year in all \$226,041.10, involving an annual expense therefor of at least \$220,000.

I am confident that the Board would not impose such a heavy burden upon the elevated railroads for the sole purpose of providing an appliance that would be practically useful on but few days in each year, unless it appears that such an appliance is indispensable to the security of life. If the directors of the elevated roads considered it even a doubtful question that such an appliance was necessary, the question of the expense would not deter them from adopting it; but judging from the best counsel that they can obtain from practical railroad men and from their past experience, the adoption of the block system upon their roads is unfitted to the necessities of their railroad and not adapted for their use under the condition of their operations, and that such a system would probably result in an undue dependence upon mechanism, rather than upon the intelligence of employees. They feel that the adoption of the block system would lead to insecurity rather than additional safety to the lives committed to their charge.

This road has for years been experimenting in automatic devices for signaling the departure or the approach of trains from or to given points on its lines; fully (25) twenty-five different devices have been examined and tested upon the lines of our railroad. They have all been more or less unreliable, for the reason that no one of these devices will always remain in working order. The inherent danger in depending upon automatic devices is that a sense of security is engendered by their use, and when they break down, as every one of them is sure to do upon some occasion, the liability of accident is greatly increased.

The block system in use upon the Pennsylvania railroad, probably the best equipped railroad in the United States in devices of all kinds for insuring both speed and safety, involve the establishment of signal stations at distances of five (5) miles apart. The operator at each one of these points notifies the operator at an adjacent point by telegraph, as follows: "Line clear" or "line blocked," as the case may be. Notwithstanding the use of this system, accidents and serious accidents, have happened recently upon the Pennsylvania railroad in foggy weather, owing to the failure of the employees fully performing their duties. It is obvious that any block system not automatic must depend for its success upon

the intelligence, competence and individual character of the employees charged with its operation.

It has been the successful policy of this company to exercise the greatest care in the selection of its employees, and to obtain men fitted in the highest degree for the discharge of the respective duties imposed upon them. If we are successful in the selection of our employees, we submit that they can be as fully trusted in times of fog to report for duty at their respective stations and warn approaching trains by personal effort and by movement over the structure, as by working a mechanical device which itself would be liable to get out of order, and which could not be seen in foggy weather at the very times at which alone it is most desirable to have such signals. I would respectfully remind the Commissioners that we have recently increased the number of men whose duty it is to signal trains during fog, by a list going into effect January 1, 1885. It is also to be borne in mind that these fog-men when on duty have no other services to perform than that of preventing collisions, by notifying engineers of trains of the time that has elapsed since the preceding train left the point at which they may be respectively stationed, and by going back over the structure and warning other trains.

In conclusion, I most respectfully and decidedly protest against the recommendation of the Board contained in its communication to this company of January 14, 1885, on the grounds that the system set forth in that communication is unsuited to the elevated railroads in the city of New York, impracticable, and so far from increasing security in the transportation of passengers upon this road, would tend to make that transportation less safe than it now is under the present system, and will be by the development and perfection of that system.

This protest is based upon the experience of these roads in transporting passengers to the number of 300,000 *per diem*, and that too in foggy weather, without the loss of a single life in consequence of collision.

MANHATTAN RAILWAY COMPANY,

By R. M. GALLOWAY,

Vice-President.

In answer to the above the following communication was sent by the Board:

BOARD OF RAILROAD COMMISSIONERS, }
ALBANY, February 13, 1885. }

R. M. GALLOWAY, Esq., *Vice-President Manhattan Elevated Railway Company:*

SIR.—Your communication to this Board of February 9, being an argument and protest against the recommendation of the Board of January 14, to adopt a mechanical block system on the elevated roads of New York to prevent collisions, has been received.

You state: "the best estimate of the expenses that I have been able to obtain, if adopting the recommendations of the Commissioners, indicate that the construction account would be \$297,610, material for operating \$5,400, and the expenses for labor \$217,845; say expenses for the first year in all, \$226,041.10, involving an annual expense thereafter of at least \$220,000."

The figures are very general and seem somewhat confused.

Will you please give this Board at the earliest moment practicable a description of the mechanical block system, also the items in detail, upon which the above estimates are made.

The Board, you will observe, has not recommended any "automatic" block system independent of human agency. The recommendation was that "the road

should be divided into sections of about five blocks each (which would correspond to the interval between the stations on the Third avenue road) that a *mechanical block* system should be put in operation by which a signal should be at danger at the beginning of each block so long as a train is within that block and should not be turned to safety until the train had cleared the other end and got into the next block."

The intention of the Board was that the operator at the beginning of block A should turn the signal to danger as soon as a train passed into block A, as soon as the signal should be turned it should lock itself. It could not be turned to safety until the train had passed from block A into block B, when the operator at the junction of block A and block B would pull a wire interlocking the signal at the beginning of block A and informing the operator at the same time who could then put his signal at safety.

It would be in the highest degree improbable that an engineer would run past the danger signal, the operator, and continue until he collided with the preceding train. This interval of space would correspond to an interval of time of one minute with trains running at fifteen miles per hour.

While you protest against the adoption of the system recommended you fail to show what other method can be employed to prevent collision in case of the brakes giving out, unusual slippery tracks on down grade, dense fog or darkness.

Collisions are liable to happen again at any time as they have before, so long as the trains are allowed to run in as close and dangerous proximity as they are at present.

The Board also directs an inquiry to be made of you as to the utility and practicability of providing a system of lighting the entire length of the tracks of the elevated roads with electric lights to be used in case of foggy weather with a request to reply within ten day.

By the Board.

WILLIAM C. HUDSON,

Secretary.

In response to the request for "items in detail upon which the above estimates are made," the Board received estimates for a mechanical block system made out in detail, showing the total estimated expense for first year to be \$506,744, and the expense thereafter each year to be \$362,919.58. In consequence of this very large expense the Board suspended its recommendation pending the investigation and trial of other devices to prevent collisions which are now being made.

III.

IN THE MATTER OF A LAND SLIDE ON THE HUDSON RIVER DIVISION OF THE NEW YORK, WEST SHORE AND BUFFALO RAILWAY, INTO WHICH THE ATLANTIC EXPRESS RAN ON THE MORNING OF DECEMBER 16, INJURING MORE OR LESS SERIOUSLY FIVE PASSENGERS AND THREE EMPLOYEES; AND OF OTHER SLIDES ON SUBSEQUENT DATES.

The facts and circumstances attending the above accident, as developed by testimony before Commissioners Kernan and Rogers, and by an inspection of the locality by the Inspector of the Board, were as follows :

As the Atlantic express, train 54, leaving Albany at 2:10 A. M., was passing Highland station, it ran into a mass of earth and rock that had slid from the top of the cutting. No lives were lost, but five passengers and three employees were injured, the most serious of which appear to be George Campbell, of New York, ribs broken; J. P. Williams, of Fayetteville, N. Y., right hand cut by glass; George Kune, of Buffalo, head cut and knee sprained; James Gorman, fireman, right leg broken and injured internally; O. B. Taylor, express messenger, head cut and left shoulder dislocated.

The cars were badly wrecked, some of them burned, involving a large loss of property.

A terrible disaster was just escaped. This and the subsequent accidents make this a subject of great importance, and the means necessary to prevent a recurrence worthy of most careful consideration.

It was recognized by the railroad authorities that the cuttings on this part of the line required careful attention. The precaution they had taken to avoid such accidents previous to that of December 16, were as follows:

The sections were about six miles long, manned by a section foreman and six men, whose duties were those generally pertaining to a section gang. There was also a *rock* gang, consisting of five men and a foreman, William Brown. It was the duty of this man and his gang to constantly examine the condition of all the cuttings between Cornwall and Coeymans junction, of which there were in the aggregate about nineteen miles. Any dangerous stones likely to fall it was his duty to take out, and generally to "dress" the slope as rapidly as possible. He swears that he went over this very place the day previous and examined the face of the slope, being supported or aided with ropes; that he saw nothing likely to slide; that he habitually gets over the whole division about twice a week; that he tests all rocks and other places that look dangerous by prying or in some other way. Furthermore, it was testified that there were twelve watchmen on this section — six by day and six by night — whose business it was to watch and warn trains in case of any obstruction falling on the track. In addition to the twelve there were two other watchmen at highway crossings.

William Commerford, the night watchman of the beat where the accident occurred, testifies that it was his duty to walk over his beat, about three-fourths of a mile in length, before and after the passage of every train; that in case a period of about two hours or more elapses between the regular passing time of trains, it was his duty to make an additional trip.

He states that he had been at the cut where the slide took place about a half hour before the Atlantic express passed, and that it was all right then. Whether Commerford had, in fact, passed over his beat within this short time previous to the passage of the Atlantic express, there is no evidence except his own. The Board was not favorably impressed with his manner of giving testimony, or his appreciation of the responsibilities resting on him, but it is proper to say he was given a good character for sobriety and attention to duty by the superintendent, Mr. Bradley, and the section foreman.

No measures had been taken by the authorities of the road to assure themselves that the watchmen do their duty in this respect, i. e., walking over their beats, except what could be learned by the superintendent occasionally passing over the road at night on a regular train. Mr. Bradley, the superintendent, testifies, however, that the engineers of the trains know the points at which each watchman should be at the time a train passes; that unless a white light is shown by the watchman it means danger, and the engineer gets his train under immediate control, and goes slow until past the point of danger. It is the engineer's duty to report the watchman, who is discharged unless he can account for his absence.

This, apparently, insures the watchman being at his station at the proper times, but does not insure his *patrolling his beat*.

The Board here suggests that there is a device which would be of use in securing this result by being put at the farther end of the beats. It consists of a clock. Instead of the hands turning, however, the face turns. Once an hour a hole in the face comes opposite a hole in a second face behind. A peg can be put in the second face at these times and at no others. If the watchman is not there to do it his absence is detected.

There may be other and better methods of securing the results, but this would answer the purpose.

From the large number of men on this section, from the testimony of the chief engineer, Mr. Katte, and of the superintendent, Mr. Bradley, as to their belief in the safe condition of the slopes, although the former had not examined them personally, the Board was inclined to think that this was one of those unavoidable accidents that no amount of care or watchfulness could prevent without putting the road to the great expense of very materially decreasing the angle of the slope with the horizon; and that it was necessarily incident to the very recent construction of the road. This view was strengthened by a knowledge of the conscientious, thorough and workmanlike manner with which the West Shore has been generally built, so far as its physical features are concerned. But on the evening of January 1st, a serious disaster to a passenger train was barely avoided by a warning given by a young man, Thomas Gould, who happened to be walking on the track without any authority, and not in the employ of the company; and again on the 9th of January, a large rock fell on the track, which, not being discovered by the watchman, caused the derailment of a freight train. These facts were called to the attention of the road in a communication in the following words: "These occurrences following in such rapid succession, and the failure of the railroad patrol to notify trains in time to prevent collision would seem to show

First. That the cuttings through this part of the road are in very dangerous condition, and need further and immediate attention.

Second. That the railroad patrols are *not* adequate to guard the track and assure safety.

In the reply of General Manager Layng, transmitted by the receivers, he says:

"It is admitted that the cuttings along the rock slopes of the Hudson River Division need very careful attention to prevent accidents of this kind in a season

like the present. I state for your information that every portion of this track where we could reasonably expect trouble is carefully patrolled, and the fact that there has been but one bad accident from this cause since the road opened goes very far to prove that it is carefully watched. *Several days ago* positive instructions were given to the officers immediately in charge to put on all watchmen that seemed to be necessary to protect our trains from accident.

The features presented in the operating of this railway are not new. They occur in all new roads built along rocky slopes, and I feel confident in asserting that no railroad, new or old, takes more precautions to prevent accident than our own. The same thing occurred for many years on the other side of the river, and that road is still troubled with occasional slips.

I state also for your information that the side hills above our cuts are being carefully inspected, and every rock or any loose material likely to come down upon the track under ordinary circumstances, is being removed as fast as it can be reached."

Previous to the receipt of this letter, however, the inspector of the Board was sent to the scene of the various slides. He made a most careful personal inspection of the cuttings and expresses a very different opinion as to their condition from that of the officers of the road.

This discrepancy may in part be accounted for by the fact that Mr. Katte testified that he had not made a personal examination of the places in question, and the Board understands that Mr. Layng has not. Since the personal examination made in company with Mr. Spencer, there is reason to suppose that Mr. Bradley has somewhat changed his opinion as to the condition of the slopes.

The inspector of the Board reports that he examined the cuttings between Newburgh and Esopus, a distance of twenty-one miles, with the view of ascertaining the necessity, if any, and the amount of material required to be removed to insure safety. *Very much* loose material was observed on most of the rock and earth slopes, apparently in a condition to fall at any time, but more particularly when a change of temperature from freezing to thawing takes place. The condition of each cut is then given in detail.

CONCLUSIONS.

The Board has reached the conclusion that the authorities of the New York, West Shore and Buffalo railroad believed that the unusually large number of watchmen was sufficient to guard against the possibility of accident, and were not aware of the fact that the slopes were in such condition that no amount of watching would make them safe. The fact that the strata in many places dip toward the river increases the tendency of each layer to slip. The principal cause is, of course, that water gets behind or between the rocks, expands in freezing and thus loosens them. As soon as a thaw takes place they fall.

To prevent just such accidents on railroads in many parts of Europe, particularly in Italy, retaining walls are built for miles along the face of cuttings. We can hardly expect this to be done in this country, particularly by a road in the financial condition of the West Shore; but the Board is of the opinion, and recommends *first*, that

the loose material from these slopes be removed without delay, and that the track force be immediately increased with that end in view.

Second. That until these slopes are properly dressed and material ceases to fall, trains be not run over that section of the road where danger exists faster than twelve miles an hour, unless there is an unobstructed view of the track to the engineer of at least a thousand feet.

Third. That a stricter system of supervision be adopted, such as that suggested above or some other, to insure the watchmen patrolling their beats.

By the Board.

WILLIAM C. HUDSON,
Secretary.

IV.

IN THE MATTER OF A COLLISION ON THE NEW YORK, WEST SHORE AND BUFFALO RAILWAY, AT CANAJOHARIE, IN THE EARLY MORNING OF FEBRUARY 21, 1885 (2:58 A. M.), BY WHICH ANDREW SHINER, ENGINEER, AND GROVE PENNY, FIREMAN, OF PASSENGER TRAIN 57, WERE KILLED.

The facts and circumstances attending the above accident, as developed by testimony before a coroner's jury and before Commissioners Kernan and Rogers, were as follows:

On February twentieth the tracks of the New York, West Shore and Buffalo railroad had been blocked by snow to a greater or less extent throughout its length. To get through it, all trains had constantly to be shifted from one track to another. The operation of the road was attended with much more than ordinary difficulty in all respects.

The day train dispatcher at Syracuse had issued an order holding all east-bound freight trains at Canajoharie.

In obedience to this order, freight train 126, T. O'Brien, conductor, and Louis Zimmerman, engineer, had been held at Canajoharie from about 1 P. M. of February twentieth. Train 122 had arrived subsequent to 126, and was also held.

These trains were so found by the night train dispatcher, J. G. Halloran, when he went on duty at 8 P. M. To prevent any mistake he reissued the order.

It appears there was not sufficient space on the side tracks to accommodate all the trains. In order to clear the track, therefore, for the passenger trains, the freight trains were shifted to the west-bound track and brought back again after the passage of the passenger trains. This shifting, although dangerous, was carried on without accident during the day, it being the duty of the engineer and conductor to protect both ends of their train under such circumstances, besides informing the telegraph operator, whose duty it was to notify the train dispatcher.

At the time of the collision trains 122 and 126 were lying east of the Canajoharie station, within the limits of the yard, and so that the rear of the train 122 cleared the cross-over between the two tracks. There were *two* cross-overs — one east of the station and one west.

Passenger train No. 57, with three engines, going west on the *east-bound track*, ran into train 126, utterly wrecking two locomotives, and killing the engineer and fireman of the leading engine of train 57.

It appears that J. G. Halloran, the night train dispatcher at Syracuse, had shifted train 57 from the west-bound track to the east-bound track at Fultonville, and had authorized it to proceed, regardless of any other train, to Canajoharie. Halloran relied on the east-bound track being entirely clear to the Canajoharie station, in obedience to the orders to hold all trains at Canajoharie.

In view of the fact, however, that the danger from collisions that train 126 had to look out for was from the *rear*; in the absence of any notice to the contrary, Halloran's neglect to notify the conductor and engineer of train 126, that he had shifted train 57 to east-bound track, was inexcusable.

His neglect was also in conflict with rule 143 of the West Shore road, which is as follows :

143. " A special order will be given in the same words to all persons or trains that are to act upon it, or are directly affected by it, so that each shall have a duplicate of what is given to the others, and when practicable, each order will include but two trains, and, with the exceptions hereafter mentioned, but one specified movement."

Halloran's neglect was the more inexcusable, from the fact that he had been the telegraph operator at Canajoharie, and knew there were no side tracks there, and that trains had to be shifted from track to track to allow others to pass.

The coroner's jury, besides finding Halloran primarily responsible for the accident, also censured the conductor and engineer of train 126 for having laid to the east of the station, on the main track, rather than to the west.

It seems to the Board, however, without justice. There was no room for their train to the west of the station without extending so far as to be in danger from approaching east-bound trains. They could not be expected to foresee that a west-bound train should come on the east-bound track without their *being notified*.

The Board is of the opinion that their conduct showed a careful regard for the safety of the trains and for the rules as they understood them.

In railroad rules, as in all others, the *spirit* must be regarded rather than the letter, if the two conflict.

It is true that the men in charge of trains 122 and 126 ran past the semaphore, and possibly the red lights at the station.

The semaphore, however, is only intended to "block the road"—that is, to prevent trains *leaving* Canajoharie until a certain portion of the road is clear; and was not intended to prevent trains passing it far enough to switch or pass from track to track. The same was true with regard to the red light at the station.

While held at Canajoharie the custom of the road, founded on good reason, permitted trains to lie to the east of the station. This they

did. Had there been sufficient side tracks, they should have been on them; but having to occupy the main track *somewhere*, the point they chose was the safest.

An inspection of the situation at Canajoharie shows that it would not be practicable to increase the side trackage there to any considerable extent. It would not be a safe or proper place generally for side tracking and passing trains within reach of the operator at the station, because the road runs through the center of the town on a curve across several much used highways. The road ought not to be censured, therefore, in not having had, to meet this particular emergency, a system of side tracks which for the ordinary uses and operation of the road would be a source of danger and a considerable nuisance to the village and its inhabitants.

It would seem from the terrible wreck that the engineer, A. Shiner, of train 57, ran into Canajoharie yard without having his train under as complete control as it was his duty to do; a rule on the time card especially cautioning him. Particular observance of the rule was necessary in consequence of his train being on the east-bound track. He paid for his neglect with his life. It is quite possible that the three engines on the train altered the conditions so that he was unable to control his train as quickly as he supposed he could, particularly as the air brakes were not under his control. As pointed out by the Board heretofore, this is always an element of danger.

The West Shore road appears to exercise the utmost care in appointing its subordinates.

The superintendent exhibited to the Board the recommendations of the men in any way connected with the accident previous to their employment by him. They were all men of good moral character.

Halloran's previous good character and reputation were certified to by the superintendent. His judgment, however, was terribly at fault in failing to inform the operator at Canajoharie of the change of tracks.

The Board was unable to find Chas. E. Burke, the night operator at Canajoharie, he having been discharged from the West Shore company in consequence of his failure to keep the train dispatcher at Syracuse informed of the shifting from track to track.

CONCLUSION.

The Board finds that J. G. Halloran was responsible for the collision in having failed to inform the operator at Canajoharie of the shifting of train 57 from the west-bound to the east-bound track.

By the Board.

WILLIAM C. HUDSON,

Secretary.

V.

IN THE MATTER OF A COLLISION AT DIEFENDORF HILL ON THE
NEW YORK, WEST SHORE AND BUFFALO RAILWAY, AT 6:57 A. M.,
OF APRIL 15, 1885.

The circumstances attending the above accident, as developed by special inquiry from the authorities of the road and by testimony of witnesses thereof, before Commissioners Kernan and Rogers, were as follows:

The subjoined letter from J. D. Layng, Esq., general manager of the road, explains the details in full. The statements therein made have been fully corroborated by the testimony of witnesses before the Board.

NEW YORK, May 8, 1885.

WILLIAM C. HUDSON, Esq.,

Secretary to Board of R. R. Commissioners, Albany:

DEAR SIR—I have your favor of the 2d. A full report of the accident at Diefendorf Hill on the 15th ult., has been delayed pending a full investigation.

The facts are that at 6:57 A. M. on April 15th, passenger train Canajoharie local No. 75, going west, engine 208, conductor George P. Smith, engineer A. R. Arnold, and an extra freight train going east, engine 169, conductor E. S. Burke, engineer Michael Cummins, collided at a point known as Diefendorf Hill, at which point we were using a double line of rails, made absolutely necessary by the rebuilding of the canal wall under the west-bound track.

The systems of signal adopted at this place, and which were in full working order at the time of the collision to provide against the possibility of two trains occupying this double line of rail at the same time, are generally acknowledged to be the best known to railroad science. Prominent "slow" signs are placed 3,000 feet from the point of contact facing the approaches by both east and west-bound tracks, and prominent "stop" signs, with that word in 18-inch letters, are placed 300 feet each side of the points of contact. The right of way over the double line is given by red and white ball signals, operated by a flagman.

Careful investigations as to the causes producing this accident show that the passenger train approached the point with train under full control, and came to a full stop at the proper point on the west-bound track, and was given the right of way by the display of the proper signals. The passenger train was on the double line when the engineer saw the extra freight train approaching from the west. He immediately applied the brakes and reversed his engine and was just beginning to back up when the freight engine struck the passenger engine on the side, knocking it over the canal wall into the canal bed below. Engineer Arnold remained at his post and went over with the engine and was seriously, but not permanently, injured, and is recovering rapidly.

The collision must have been about the driving-wheels of the engine, as nothing but the engine went over, the force of the blow separating the engine from the tender, leaving the tender comparatively uninjured, and there was no other damage to the train except the front end of the baggage-car slightly broken.

There is no doubt but what the responsibility lies with engineer Cummins of the extra freight. He certainly knew where he was, and must have seen the stationary signals and the target signal, but failed to recognize any of them. The evidence brings out the fact that he attempted to stop after he saw the passenger train could not get out of his way. There has been an impression that this man Cummins was under the influence of liquor at the time. There is some doubt in my mind about this, as his fireman and the train-men say they saw nothing to indicate his being drunk. It is true that after the accident he was found in Canajoharie very drunk, but this may have resulted from his drinking liquor after the accident. The freight engine was comparatively uninjured, there being nothing

broken about it except the pilot. I think your Board will agree with me, and I desire to place on record the heroic conduct of the engineer of the passenger train, by whose efforts alone a very serious accident was avoided.

I trust that it is not necessary to advise your Board that all of the employees on the freight train were discharged, except the fireman who could not be held responsible, the conductor and train-men being blamed for not applying the brakes approaching this point without being asked to do so by the engineer.

The money results of the accident are small, the whole damage being to the engine, and it will only cost in the neighborhood of \$1,500 to repair it.

Yours truly,

J. D. LAYNG,

General Manager.

(Signed)

The Board concurs with Mr. Layng as to Michael Cummins' responsibility for this accident.

The evidence showed that he made no effort to bring his train under control when passing the first "slow" sign.

It appears by the testimony there were two "slow" signs before reaching the stop board, one 3,000 feet, the other 1,200 therefrom.

Cummins' fireman, Charles McGreevy, testifies that they passed the first at the rate of twenty or twenty-five miles an hour; that Cummins did not shut off steam until about half way between the first and second slow board; that he made no effort to stop at the "stop board," and did not reverse his engine until he saw the passenger train ahead of him. The fireman jumped almost immediately after the engine had been reversed. He was unable to answer positively whether Cummins gave steam in the reverse motion or not, but was of the opinion he did.

The probabilities are that he did, and about the only thing that can be said in Cummins' favor is that he showed courage in sticking to his engine and giving it steam on the reverse motion at the last moment, even when he saw the collision was inevitable.

In all other respects, his conduct was reckless and in direct disobedience of the orders of the road.

It was stated that after the accident he went to Canajoharie, got intoxicated and was arrested. There is no proof, however, that he was under the influence of liquor previous to the collision.

The master mechanic of the road, Mr. J. M. Boone, states: "I did not know and had no reason to suppose that he was an intemperate man; had there been the least suspicion of his being a man of that kind, he would have been dismissed; the rule is that no engineer or fireman is to be retained in the service who uses intoxicating liquor, either on or off duty. Frequenting of saloons is considered sufficient cause for discharge."

Mr. Boone goes on to say: "His record for sobriety and attention to duty since on the West Shore road is good."

That it would have been impossible for him to have been a drinking man without his (Boone's) discovering it; that he made it a special duty to hunt out intemperate men, and that he has given positive instructions to all his subordinates to be at all times on the watch for any signs of intemperance on the part of employees, and has always taken immediate action, even though it was but a case of suspicion.

Cummins was not at the first examination, but was subsequently found and brought before the Board by subpoena.

His explanation of his conduct was wholly unsatisfactory. He protested violently against the accusation of intemperance, however. It is possible that it was not well founded. He is evidently a very excitable and nervous man and, as facts have demonstrated, not qualified to be in charge of an engine.

He sought to throw the blame on the conductor and brakeman of the train for not having "held" him. The testimony with regard to their conduct is somewhat conflicting, and it is probable they were, to some extent, derelict in not being more promptly at their posts and setting the brakes; but by no means to an extent sufficient to exculpate Cummins.

The latter insisted that the head brakeman, who had been riding on the locomotive, did not leave until an instant before the collision, whereas the man himself, Herbert Dawson by name, testifies that he got out about three minutes before, and in time to set the brakes on four cars; and that when he reached the top of the car, he saw all the other men "on deck."

Cummins requested that the man who tended the signal ball should be summoned, and that he would corroborate his (Cummins) testimony as to the time that the brakeman left the engine. Cummins stated that the signal-tender saw him leave. The man was summoned but failed to sustain Cummins' statement.

The fireman testified that the brakeman left the engine after passing the first "slow" board and after the engineer had whistled for brakes. Corroborating circumstances lead to the conclusion that this was in fact about the time the man left. It is quite possible that the different statements were made in good faith. The events followed with such rapidity that a mistake might easily have been made by one or the other as to the exact time. It is evident, however, that the brakeman should have been at his post sooner, but the neglect was by no means criminal, and may be called insignificant in comparison with the conduct of Cummins.

CONCLUSIONS AND RECOMMENDATIONS.

The Board finds that Michael Cummins, the engineer of the freight train, was responsible for the collision, through his reckless conduct, disobedience of orders and disregard of signals, and approves the action of the New York, West Shore and Buffalo Railway Company in discharging him.

Second. It finds that the conductor and brakeman of the freight train should have been more alert and should have applied the brakes sooner.

Third. It commends the heroic conduct of engineer A. R. Arnold of the passenger train, by which a serious disaster was prevented.

By the Board.

WILLIAM C. HUDSON,

Secretary.

ACCIDENT INQUIRIES.

Boston and Albany.

December 18, 1884.—At highway crossing, Canaan, Mr. Cross, injured crossing the track. In reply to inquiry, the company stated that it was an ordinary village crossing, there were no gates or flagman, and there was an uninterrupted view of forty or fifty rods in each direction. The injured man had bad vision and bad judgment.

June 25, 1885.—At Hudson, upper freight yard station, F. Malone, a boy, four years old, injured, trespassing in yard. In reply to the inquiry, "Are any measures taken to prevent trespassing, such being contrary to law," the company replied, that employees are instructed not to allow people in freight yards who do not have business there, and in many cases the yards are so located that the employees have little or no trouble in carrying out instructions.

Bradford, Eldred and Cuba.

February 25, 1885.—At about a half mile east of Norton Summit the conductor and engineer were injured by derailment of accommodation train No. 22, caused by broken rail. In response to inquiry, the company stated that the rail was of iron.

Delaware and Hudson Canal Company.

November 15, 1884.—At Coons, three miles north of Mechanicville, Wm. Ryan, fireman, injured, jumped from engine to avoid rear collision between — train and wild-cat freight train. In response to inquiry, the company stated that the accident had been caused by the carelessness of John Congdon, engineer, who had been suspended. He was following a Susquehanna division wild-cat freight train, going to Schenectady, and the actual cause of the accident was the fast running of the rear train.

January 30, 1885.—At Green Island gravel track, north of roundhouse, James Murdock, a boy, killed riding on engine, which was derailed by imperfect switch, the tender thereby colliding with a pile of coal. In response to inquiry, the company stated that the engine was backing; the eye in the end of the handle of the switch, where it connects with the standard, broke off, letting the rails shove out of place, so that the wheel of the tender caught upon it, and got off the track.

February 12, 1885.—At highway crossing at Warren street, Glens Falls, near canal bridge, E. Witherill killed and N. Witherill injured, driving across the track. The company stated in response to inquiry, that Warren street crossing is about one mile east of station where the canal feeder is crossed; there never has been a flagman at that point; the crossing is at a slightly acute angle with the road, and is quite unobstructed. There is no trouble in seeing the track from a point near the road. A sketch was inclosed showing the situation.

February 25, 1885.—At the Quaker Street yard, on the Susquehanna division, E. Whittaker, fireman, killed by collision between train No. 28 and light engine No. 82. In response to inquiry, the company stated that engine No. 82 was not on main track by au-

thority. Quaker Street was a regular stopping place for train No. 28, the engineer of No. 82 was discharged for leaving engine on main track without orders, and the engineer of train No. 28 was discharged for coming into yard at too high a rate of speed.

June 18, 1885. — At Esperance station, M. G. Kromer, brakeman, injured, thrown off engine derailed by open switch. In reply to inquiry, the company stated that it was a stub switch, and was maliciously misplaced.

September 9, 1885. — One-half mile north of Comstock's, three passengers were slightly injured, the engineer killed, and fireman, baggage master and express messenger injured by derailment of train, caused by a mass of rock that had slid upon the track from a low rock cut; a heavy storm was prevailing at the time.

The Board asked for a special report with regard to this accident, receiving the following:

ALBANY, N. Y., *September 18, 1885.*

The scene of the accident is in a rock cutting about half a mile north of Comstock's station. The cutting is through a limestone rock, the strata of which pitches very irregularly. In some places it tends directly towards the track, in others away from it. The cutting is partly a side cut, and in the highest place about fifteen feet above the rail; for about 200 feet it is a through cut about ten feet high. All through the cut the rock appears sound and firm and unusually free from seams. The top of the cutting is covered with a thin layer of soil in which grow a few scrub pines, etc. This cut was completed at the time the Saratoga and Whitehall railroad was finished in December, 1848.

Mr. I. V. Baker, formerly superintendent of the road, was born at Comstock's, and has lived all his life within half a mile of this place. He says he never knew of any trouble from falling rock in this cut. He never considered it a dangerous place, or had any uneasiness concerning it. He never heard any one speak of any rocks there being loose or in a dangerous condition.

John Nolan, at present track supervisor on that section, has been in the employ of the railroad for about twenty-five years past, always on that section. He says he never knew of any rock falling in that place. It has stayed in its present condition ever since the road opened. He has passed through it almost daily and never saw any indication of loose rock. There was one piece of rock that appeared loose when cut was first finished (in 1848) and contractors sunk an iron V bolt in the stone. The bolt is still visible and the stone has never moved.

I inclose a sketch showing the size and location of the mass of rock which fell. The cutting at this point is not over eight feet high and slopes considerably back from the track. The rock that slipped measured in all about fourteen feet long, four feet wide and two feet thick, and must have weighed about eight tons. It slid against the end of the ties — did not fall on the track at all, but pushed the track out of line about six inches. The left-hand forward cylinder of the locomotive struck the rock, and so the engine and train were derailed. This was about 150 feet from the north end of the cut, and the engine lay at the foot of the embankment, about 800 feet from where it first left the rails.

The track-walker, Ceylon Facto, left Comstock's, near where he lives, about 8 P. M. and walked to Whitehall, where he was seen between 10 and 11 P. M. He left Whitehall about 11 P. M. and returned to Comstock's. He was passed on the way south by our evening sleeping-car train No. 8 which left Whitehall on time at 11:50 P. M., and which passed Fort Ann on time. No. 26, a freight bound south, left Whitehall at 12:10 A. M. and passed Fort Ann at 12:46 A. M. Train No. 29, a north-bound freight left Fort Ann at 12:52 A. M. and arrived at Whitehall at 1:25 A. M. The track-walker was at Comstock's when this train passed. He waited a few minutes, talking with the track-walker from the next beat south, who met him there, and then, as it was storming very hard, he went home. He must have passed through the cut about 12:50 or 1 A. M. The north-bound sleeping-car train No. 7 which was derailed left Fort Ann at 2:33 A. M., so that the accident must have occurred about 2:45 A. M.

The Board, while acknowledging the foregoing report to be full and satisfactory, still desired the company to inform it whether any measures had been taken, or were deemed necessary or expedient to be taken to prevent the recurrence of rock slides. The company in reply informed the Board that their trackmaster had been instructed to set men at work in the cut north of Comstock's, that every appearance of loose rock or fissures is to be thoroughly examined, and every piece that can possibly be moved, taken down. To do this he was told to drill and use powder to a moderate extent, if found necessary to remove any portion that might ultimately come down by natural causes. Further than this the company did not deem any action necessary except the regular patrol given all portions of its line.

September 28, 1885. — Near Collins station, Simon G. Cook, of Oneonta, engineer of train No. 8, was killed. Train 8 ran into the rear of freight train "first extra, 26," throwing the engine of train 8 down the embankment into the river. The company reported the accident to be due to the disregard of the company's rules on the part of the conductor, Wm. Moffatt, and the neglect of duty on the part of brakeman Heywood.

The Board called for a special report of the circumstances attending the above collision and for a statement as to whether the freight train had a flag out. In pursuance of this request the following report was made:

ALBANY, N. Y., October 2, 1885.

To the Board of Railroad Commissioners, State of New York:

In compliance with your request of Sept. 30, I make this special report regarding accident near Colliers on the 28th ult.:

The morning was very foggy; train No. 26 (a freight train) came to Colliers ahead of train No. 8 (a passenger train) and was about to cross over to the west-bound track for the purpose of getting out of the way of train 8, the conductor going ahead to superintend the act, leaving flagman Heywood to flag No. 8, which he pretended to do but did not go back far enough in view of the foggy condition of the atmosphere; he also neglected to use torpedoes, of which he had a full supply, and which the rules of the company require flagmen to use under such circumstances. The warning to No. 8 therefore was not sufficient to prevent their colliding with the rear end of the freight train. The accident would probably not have been so severe had it not been for the fact that it occurred upon a sharp curve and narrow embankment which caused the engine to roll down the bank as soon as it left the rails.

The only persons in fault so far as I have been able to determine were conductor Moffatt for leaving the rear end of his train under such circumstances without knowing that it was properly protected by a flag; and flagman Heywood for not going back far enough to stop the train. Engineer Westcott was also at fault in connection with conductor Moffatt for leaving Oneonta so near train 8's time, though I do not look upon this fact as bearing upon the direct cause of engineer Cook's death. If any further information is desired I shall be pleased to furnish it if you will state what it is.

Respectfully,

C. D. HAMMOND,

Superintendent.

Thereupon the Board inquired what discipline had been administered to the employees stated to be at fault, and the following reply was made:

ALBANY, N. Y., October 7, 1885.

Replying to your favor of 6th inst., conductor Moffatt, flagman Heywood and engineer Westcott have been dismissed from the company's service. The case of conductor Moffatt and flagman Heywood is to-day being considered by the grand jury of Otsego county.

Respectfully,
C. D. HAMMOND,
Superintendent.

The Board has made further investigation and conferred with the authorities of the road as to whether the method of dispatching trains from Oneonta is the safest possible under the conditions there obtaining.

Elmira, Cortland and Northern.

February 11, 1885. — At two miles east of Bessemer's, two employees injured by derailment of freight train, caused by loose wheel. In response to inquiry, the company said that they could not state the actual cause of the accident; a number of cars were left on the track, and it is supposed that on one of them was either a broken or a loose wheel, because no other reason could be assigned for such an accident. The cars belonged to the Pennsylvania Railroad Company, and were inspected before leaving Elmira.

Fall Brook Coal Company.

December 1, 1884. — At overhead bridge, one mile north of Corning, F. A. Lyons, brakeman, killed; just as the coach had passed the warning signal he climbed to the top of a box car. In response to inquiry, the company stated that there was a warning signal in good order at the time of the accident.

April 2, 1885. — At one-fourth of a mile south of Bennett's depot on the Geneva and Lyons railroad, three employees and one other injured by derailment of Fall Brook Coal Company's train, caused by broken rail. The New York Central and Hudson River Railroad Company, owning the Geneva and Lyons railroad, in reply to inquiry, stated that the rail was made by the Bethlehem Iron Company in 1878, and laid that year; weight, sixty-five pounds. After the rail was broken a flaw or crack showed itself.

Geneva, Ithaca and Sayre.

December 17, 1884. — At first crossing south of Geneva depot, Mrs. Carpenter, injured, crossing the track; the usual signals given and engine reversed. In response to inquiry, the company stated that there were no gates or flagman, and the view was unobstructed.

Long Island.

October 7, 1884. — At highway crossing Cooper avenue, C. Trimbach, killed, driving across the track. The company, in response to inquiry, sent a tracing of the surroundings, showing an unobstructed view on both sides of the track, nearly to Dummy crossing.

October 8, 1884. — At Maspeth avenue, near Grand street bridge, Mrs. M. A. Lawrence, killed, driving across the track. In reply to the

inquiry as to whether the locality named was not a proper place for gates or a flagman, the company stated that Maspeth avenue was a small crossing, and seldom used; the people in that vicinity generally travel over Flushing avenue, known as Grand street crossing, 400 or 500 feet east of Maspeth avenue. The Grand street crossing has gates and a flagman.

January 8, 1885. — At Bethpage Junction, the engineer and fireman of train No. 39 killed by derailment of engine, caused by misplaced switch, through maliciousness, so supposed. The company stated, in response to inquiry, that the switch is an improved "Lorenz," made by the Pennsylvania Steel Company.

May 27, 1885. — About three-fourths of a mile east of Mattituck, W. Raynor, brakeman, killed, struck by overhead bridge. In response to inquiry, the company stated that all the bridges, including this, are supplied with "ticklers," and that Raynor was between the tickler and the bridge, or rather came up on top of the car in that position.

June 27, 1885. — About 300 feet east of Central avenue, Brooklyn, Mrs. Withering, killed, crossing the track. In reply to inquiry, the company stated that the accident happened at a foot-path crossing the Manhattan Beach Division on a "fill," and that the view is unobstructed for a distance of nearly a half-mile, or to Cooper avenue.

July 9, 1885. — At Hopedale crossing, John Buck, killed, while driving across track. In response to inquiry the company stated that there were no gates, but a flagman is now stationed at said crossing, and further that the view is not very good in either direction.

July 16, 1885. — At Waverly avenue, Brooklyn, Theresa McAuley, injured, while crossing track. In reply to inquiry, the company stated that the crossing at this point is simply a foot crossing, the view is perfectly unobstructed, the track is in sight for a long distance in both directions, and there was no necessity for gates or flagman.

September 22, 1885. — Between Fresh Pond and Long Island City, H. B. Dukes, a brakeman of a "wild cat" train was, while riding on top of one of the freight cars, struck in the face by a pipe crossing the track in the vicinity of Fleischmann's distillery, at Blissville. His head and face were lacerated. The Board at once inquired whether the pipe had been removed.

The attention of the company having been called to this obstruction, measures have been taken to have it removed.

Manhattan.

January 10, 1885. — At Ninety-eighth street and Third avenue, New York city, L. Bergman, agent, killed, walking on track. In response to inquiry, the company stated that the entire yard and main line were floored at the point in question. A diagram of the Ninety-eighth street yard and station was submitted.

New Jersey and New York.

December 24, 1884. — At Nannet junction switch, eight passengers injured by derailment of passenger car of train No. 12. The report

made February 16, 1885, stated that the investigation as to the cause of the accident was still pending. In response to inquiry under date of July 8, 1885, as to what conclusion had been reached, the company replied as follows, viz. : " We have not received any additional information concerning the accident, and presume the court will be called on to determine the matter, and the trial of the case will no doubt develop the desired information."

New York Central and Hudson River.

October 17, 1884. — At Adams street crossing, Troy, P. Butler, injured, driving across track. In response to inquiry, the company stated that there was no flagman at the crossing when the accident occurred; he does not go on duty until 6:30 A. M., and the accident occurred at night; the view is unobstructed, the driver was warned by three persons not to cross, but persisted in doing so.

October 18, 1884. — At highway crossing one and one-half miles east of Batavia, F. Linstead, killed crossing track. The company stated, in response to inquiry, that there were no gates or flagman, and that the view was clear.

January 25, 1885. — At highway crossing at Ilion, Mrs. M. J. Richards injured by upsetting of sleigh at the crossing. In response to inquiry, the company stated that gates were not completed at the time of the accident. The view is comparatively clear when no trains are passing to shut it off. In this case a train was passing east on track 4. Persons were waiting for it to pass, and as soon as it cleared the crossing, they started to drive across. A train was going west on track 3, however, and Mr. Richards, who was on the ground, turned and stopped the team. He turned the horse so quickly that the sleigh was overturned and Mrs. Richards was injured.

January 28, 1885. — At Cortland street crossing, Tarrytown, Elizabeth Daly killed, crossing track. The company stated, in response to inquiry, that there were no gates, that the crossing was a long, diagonal one, and the view was clear.

January 30, 1885. — At Melrose, George Brown, employee, injured; found in an unconscious condition on top of freight car. In response to inquiry, the company stated they did not know and were informed that Brown did not know how the injury was received. The bridges on the Harlem road are protected by signals. The accident occurred in broad daylight.

February 2, 1885. — In New York city, Sixty-fourth street and Twelfth avenue, P. Fagan, employee, killed, standing on the track, struck by backing engine. In response to inquiry, as to whether there were gates or a flagman, the company replied that the accident did not occur at a crossing, and that there were no crossings at grade between Fifty-ninth and Seventy-ninth streets.

February 18, 1885. — Near Southern Central bridge, Weedsport, Wm. Stone, employee, killed; struck by post that supports ticklers. Inquiry was made as follows: " Why should not this post, and in general all posts, be removed far enough from the tracks to prevent such accidents," and suggestion was made that " posts intended for the support of bridge ticklers could be placed on each side of the tracks and

a wire or rope stretched between to hold the tickler?" The company replied that tracks were twelve feet centers, and it was deemed perfectly safe to put a post for the warning signal between tracks number 2 and 3.

February 19, 1885. -- At Levee street crossing, Cohoes, P. Fahey, killed, driving across the track. In response to inquiry, the company stated that there were no gates or flagman, that the crossing was not much used and the view unobstructed.

March 19, 1885. -- At Staatsburgh, J. Keenan, employee, injured, struck by bridge protected by warning signals. In response to inquiry the company stated that perfect warning signals were placed, and the only way to account for the accident was that the brakeman came up between the cars, after passing the warning signal, which is usually placed about one hundred feet from the bridge.

March 21, 1885. -- At Poughkeepsie, G. Taylor, employee, injured, struck by bridge protected by warning signals. In reply to inquiry, the company made the same response as that relating to the accident of March 19, 1885.

March 23, 1885. -- Near Hamburg draw-bridge, W. E. Smith, employee, killed, standing on steps of baggage-car platform, looking at hot box, struck by side rods of bridge. In response to inquiry, the company stated that the bridge at New Hamburg is what is known as the "Dutch draw," each track swinging separately, that is, it is hinged at one end, and the further end is carried by rods from the tower. The width between the tracks is seven feet and nine inches, but within this space, one post which forms part of the tower is placed, the outside of which is three feet and four inches from the rail. The carrying rods extend from the tower down to the track, leaving a space of three feet and one inch. It was one of these carrying rods that the trainman came in contact with, in leaning out from the step.

March 27, 1885. -- At Croft's, C. H. Belden, employee, injured, struck by post, leaning from side of platform car. In response to inquiry, the company stated that the distance from the track to the switch post was four feet, and that was the usual distance in such cases.

April 17, 1885. -- At corner of Thirty-eighth street and Eleventh avenue, New York city, Lucy Heabbrann, injured, crossing track. In response to inquiry, the company stated that there were no gates or flagman at said point, that the crossings in this vicinity were but 200 feet apart, and that a flagman was stationed at Thirty-ninth street where there is more crossing.

May 6, 1885. -- At Sixty-fifth street yard, Mr. Felton (supposed), injured, struck by bridge while riding on top of freight car. In reply to inquiry, the company stated this bridge has always been considered sufficiently high to avoid accidents of this character, and no signals were erected. The bridge has since been removed.

June 2, 1885. -- North of Mt. St. Vincent station, three passengers were slightly injured by collision of smoking car with a car of passing freight train. The company, in response to inquiry, stated that the car on the freight train was a refrigerator car, which is constructed with doors hung at the top. This car was properly secured on leaving the terminal point; at Seventieth street the hasp broke off after leaving,

and the motion of the car set the door to swinging from the bottom out; when the passenger train passed, the door struck the forward end of the smoking car, slightly injuring the men referred to in the report. The Hudson River railroad tracks are eleven feet centers.

June 9, 1885. — One mile west of Cohoes, P. Bumbaŷ, injured, driving across the track. In reply to inquiry, the company stated that gates were in process of construction at the point named, but were not ready to be used at the time the accident occurred.

June 26, 1885. — At first crossing north of Peekskill, W. H. Henderson, killed, driving across the track. In reply to inquiry, the company stated that there were gates, but they were not operated from 8 o'clock, P. M., until 6 o'clock, A. M.

July 8, 1885. — At Front street, Schenectady, Jesse Relyea, injured, while clinging to ladder on side of freight car. He was struck by signal stand and thrown to the ground. Responding to inquiry, the company stated "that we cannot well place switch stands further away from the track than we now do. This one, as we understand it, was between the tracks going off the Delaware and Hudson Canal Co.'s line to ours."

July 28, 1885. — At Mott Haven, Wm. Ward, employee, injured, struck by signal beam and knocked from top of car. In response to inquiry, the company stated that the signal pole could not well be changed, and the same kind of signal maintained, it being a draw-bridge signal and drops over the track in case the engine attempts to run by. Ward was switching cars at the time he was injured, and the accident was really the result of his own carelessness.

August 14, 1885. — Near Chili station, H. Knickerbocker, killed, crossing the track. In reply to inquiry, the company stated that there were no gates, but there was a flagman who warned Knickerbocker not to cross.

August 22, 1885. — At three miles west of Forks, George W. Mohr, employee, injured while putting on brake. The standard broke, causing him to fall to the ground. In response to inquiry, the company stated that an examination was made not only of brake-staffs and wheels, but of every thing else appertaining to the safe operation of the road; that the brake, wheels and staffs were broken mainly by the sudden application of the brake by the men, who also sometimes screw them up so tight that they will break where all appeared sound. The company further stated that they endeavored to watch all these things closely.

September 10, 1885. — In the Albany passenger yard, Henry Thomas Kule, a resident of London, England, was injured in his side and the skin below his eye cut. A car, part of the emigrant and freight train No. 35, loaded with horses (which were in charge of Kule), jumped a frog and tipped over, causing the injuries referred to above. The Board inquired as to the reason of the car jumping the track. The reply was, that after righting the car on the track, a small portion of the flange of a wheel was found broken. Whether it was broken when thrown from the track, or whether it was the cause of the throwing off, could not be determined.*

September 16, 1885. — At the North Second street crossing at Troy, Nathaniel Reynolds stepped on track in front of engine No. 45, and was knocked down and slightly bruised. The report said that both bell and whistle were sounded. The Board inquired whether a flag-

man was stationed at the crossing. The reply was that there was a flagman on duty at the time of the accident and that, since, gates had been erected and were in operation.

September 27, 1885. — About 1,000 feet north of Brewster's, a freight train of the Central on the Harlem branch struck a coach of the New York and New England R. R. Co., which had been thrown over timbers placed across the New York and New England tracks to prevent running on to the Harlem tracks. The engineer of the freight train, G. Wyman, jumped from the engine when it struck and injured his knee-pan.

The Board inquired first what the timbers were ; second, by what the New York and New England coach had been struck to get it on the Harlem tracks ; and third, why it was not known to be on the tracks.

The answer of the road was :

"That the timber referred to was a block across track of the N. Y. and N. E. R. R., intended to prevent cars from running on to our tracks. In switching, their men in some way threw one of their coaches so it passed over the block and ran on to our track, immediately in front of an extra freight train, which struck the coach, causing the accident.

"Truly yours,

"THEODORE VOORHEES,

"Asst. Gen'l Supt."

New York City and Northern.

March 27, 1885. — At draw-bridge between One Hundred and Fifty-fifth street and High Bridge, New York city, one passenger and one employee injured, by collision of train with the draw-bridge. In response to inquiry, as to whether it was not practicable and expedient to interlock the draw-bridge with the signals, so that the draw-bridge cannot be moved without putting the signals to danger, the company stated that it was both practical and expedient to make such arrangement, and it has been under consideration for some time. Owing to the sharp curves on both ends of the bridge, it is a difficult point to cover, hence unusually costly. It was hoped to have proper signals in operation there very soon.

New York, Lake Erie and Western.

October 8, 1884. — At highway crossing one-half mile east of Painted Post, D. H. McWilliams, killed, driving across the track. The company, in response to inquiry, stated that the crossing was not protected by gates or flagman, that the view eastward from the crossing is unobstructed, and westward partially obstructed by trees not on the land of the company.

October 21, 1884. — At College crossing, three-fourths of a mile east of Allegany, J. Nudd, killed, driving across the track. The company, in response to inquiry, sent a map, showing the position of the crossing, and stated that the view, though partially obstructed by a small orchard, is sufficient to render passage at that point perfectly safe.

October 23, 1884. — At three-quarters of a mile west of Hornellsville, engineer and brakeman of train No. 33, injured, caused by derailment of train. The company, in response to inquiry, stated that the switch

was misplaced by the track foreman, who had been dismissed. The switch in use was a split safety.

October 27, 1884. — At Sterlington, three employees injured by derailment of train No. 8, caused by misplaced switch. In response to inquiry, the company stated that the switch was misplaced by the conductor, who was dismissed. It was a stub switch, and it is intended to change the cross-over at Sterlington, so that trains can back over and thus avoid running against the switch points.

November 8, 1884. — At second road crossing, west of Mountainville, W. Wright, a boy, injured, driving across the track. The company, in response to inquiry, sent a map, showing view unobstructed on both sides of the crossing.

November 13, 1884. — At William street, East Buffalo, J. Schneider, injured, driving across the track. The company stated that there was a flagman at the crossing, the view of which is unobstructed for half a mile.

January 7, 1885. — At Dexterville highway crossing about one mile east of Jamestown, L. Bush, killed, crossing the track. In response to inquiry, the company stated that there were no gates or flagman, the view of track to highway traveler going from the north to the south (as Bush was) is unobstructed for a distance of from three to five miles. Mr. Bush was seventy-five years old and quite deaf.

March 29, 1885. — At Wellsville, D. McGuire, fireman, not on duty, injured, struck by overhead bridge. The company, in response to inquiry, replied that there were warning signals properly placed at this bridge.

April 14, 1885. — At first crossing east of Addison station, V. C. Seeley, killed, driving across the track at 7:10 A. M. In response to inquiry, the company stated there were no gates, but a flagman is on duty from 7:30 A. M. until 6:52 P. M.

April 22, 1885. — At Howell's, John Oldroyd, while crossing track was struck by bumper of engine, receiving such injuries that he died shortly afterwards. Responding to inquiry, the company stated that there were neither gates nor flagman at point where accident occurred, the track being straight with an unobstructed view for half a mile westward. That the man was struck by an east-bound train.

May 3, 1885. — At one-quarter of a mile east of Wellsville, Miss Sarah Myers killed crossing the track. The company, in response to inquiry, stated that there were no gates or flagman at this crossing.

June 7, 1885. — At Elmira, H. Jones, brakeman, injured, struck by electric light wire. In reply to inquiry, the company stated that the wire had been raised.

June 20, 1885. — At Hydraulic street, Buffalo, N. Y., Jacob Kelleman, a boy six years of age, injured in attempting to cross track ahead of engine. In response to inquiry, the company stated that there were no gates or flagman at that point.

June 29, 1885. — At one mile east of Cameron's Mills, Thomas Sanders, killed, riding on hand car. Inquiry was made as to by whose authority Sanders was riding on the hand car. The company stated that permission was given by bridge inspector D. C. Williams, who was dismissed from service.

July 6, 1885. — At Bell street crossing, Owego, Mrs. Wm. Bell, in-

jured crossing the track. In reply to inquiry, the company stated that there were no gates or flagman, that the view was unobstructed from the crossing westwardly 600 feet, and easterly 550 feet.

July 13, 1885. — At Dalton, Hattie M. Parker, a child seven years of age, was injured crossing the track. Responding to inquiry, the company stated that there were no gates or flagman at the crossing where the child was injured. The track at that point runs in a straight line about 4,500 feet, and a person nearing the same from either side could see an approaching train the entire distance. The child had crossed the track just ahead of the train when her hat was blown off upon the track and in going back to get it was struck by the engine.

August 17, 1885. — At Smith street, Buffalo, Conrad Boardman, age thirty, and Charles Cook, age two years and eleven months, both of Buffalo, while crossing the track at 2:45 P. M., were struck by the engine of train 37 and killed. The Board inquired whether the crossing was protected by gates or flagman. The reply was that no gates protected the crossing, and that a flagman was stationed at the crossing during the day but not at night. The reply further alleged that the verdict of the coroner's jury exonerated the company from blame.

August 26, 1885. — At trestle, East Buffalo, William Webb, switchman, while riding on top of car of switch train, was struck by bridge. In reply to inquiry, the company stated that at the point where accident occurred there were no bridge warning signals, as it was not necessary for the men to ride on top of the cars while on top of this trestle, and that the man who was injured had no good reason for being there. The company, however, has caused bridge warning signals to be erected in order to guard against like occurrences in the future.

September 7, 1885. — At Louisiana street, Buffalo, Michael Gallagher, of Salamanca, while crossing the track in front of Lehigh Valley train No. 23, was struck by the engine, and knocked down, sustaining slight injuries about the head, left hip and body. The Board inquired whether a flagman watched the crossing. The reply was that gates protected the crossing and were watched night and day. In this case, train 1 was passing, closely followed by No. 23, on another track. No. 1 having passed, Gallagher stepped around the end of the gate and was struck by the pilot beam of the engine of train No. 23.

September 30, 1885. — At Painted Post, John Koshele, of Cowanesque, Pa., drove across the track in front of Lehigh Valley train No. 27. His wagon was struck by the engine, and Koshele was thrown out, his head cut and his side and hip injured. The Board inquired whether there was a flagman at the point of accident and whether the view was unobstructed. The reply was that the view was unobstructed and that there was no flagman stationed at the crossing. Further, that "the man injured was apparently intoxicated and evidently saw the train, as he whipped up his horses to drive across ahead of it."

New York, New Haven and Hartford.

July 29, 1885. — At second crossing west of Rye station, Robert Dickey, while driving horse attached to covered milk wagon across track, was injured and horse killed. Replying to inquiry the com-

pany stated that there was no flagman at said crossing, the view being unobstructed, and it is what could be called a fairly good crossing.

New York, Ontario and Western.

November 26, 1884. — At Main street crossing, Sidney, O. P. Butts, injured, driving across the track. In response to inquiry, the company stated that the crossing is within a few rods of Sidney depot, where all trains stop and approach, crossing carefully and under full control, and it has not been deemed necessary to erect gates or put on a watchman. The view is unobstructed, unless cars or trains are standing on some of the side tracks. The agent and employees are on hand when trains arrive.

February 3, 1885. — At highway crossing, one-quarter of a mile north of Tappan station, Hans Singer and Chas. Goldsmith, injured, driving across the track. In response to inquiry, the company stated that there were no gates or flagman. The highway, in the direction in which the travelers were going, is nearly parallel with the railroad, and a distance of about a quarter of a mile from it for about half a mile. The railroad and approaching trains can be distinctly seen most of the way. At two points the view is obstructed, but the crossing is not considered dangerous. The weather was very cold and the occupants of the buggy were so bundled up they were probably unable to hear the signals which were sounded. The top of the buggy was up, and the occupants could not see an approaching train without putting their heads out of the carriage.

New York, West Shore and Buffalo.

October 12, 1884. — At Orangeburgh cut, rear collision of freight train with train of New York, Ontario and Western, four employees injured. Inquiry was made as follows: "Was the work train of the New York, Ontario and Western Railroad Company protected by flags, and who was to blame for the accident?" The company replied, that the responsibility of the accident had not yet been fixed and is likely to be the subject of a protracted investigation. Under date of February 9, 1885, the company, in response to inquiry, stated that the responsibility lay between the flagman of the front train and the engineer of that following, and that no conclusion had yet been reached. Under date of June 10, the company, in response to inquiry, stated that there was nothing definite yet, that the responsibility lay between the engineer of the West Shore train and the conductor of the Ontario and Western train, but that the matter was not in such shape that the company wished to place on record their position with regard to it.

October 19, 1884. — At highway crossing, about one mile west of Edgewood siding, John Fagan, killed, driving across the track. The company was acquitted of negligence by verdict of the coroner's jury. In response to inquiry, the company stated that there were no gates or flagman; there was a view of trains from the west for two miles; there was no obstruction, the highway crossing the railway on a level and at right angles. Mr. F. was killed by an east-bound train by his own carelessness.

October 24, 1884. — At overhead bridge, east of Mohawk, Michael

Mahar, brakeman, injured ; riding on top of car with back to engine, struck by overhead bridge. In response to inquiry whether there was a warning signal, the company stated that the bridge is a farm bridge, and in some way, probably by raising the track, there was not sufficient clearance, but that it had been remedied, and the bridge put up far enough to remove any danger of a like accident in the future. The brakeman was a very tall man.

November 7, 1884. — Between terminal and rapid switches on the Buffalo, New York and Philadelphia railroad, five passengers and two employees injured by a butting collision between passenger trains Nos. 58 and 77, caused by misunderstanding. The company were asked for the circumstances more in detail, and replied that one of the engineers ran by the meeting-point where he should have side-tracked for the other train, and there seemed to be no excuse, as said engineer had been running an engine for about thirty years.

November 24, 1884. — At Kent's Pit crossing, near Macedon, M. Carroll, killed, crossing the track ; proper signals given. The company stated, in response to inquiry, that there were no gates or flag-man and the view was unobstructed.

May 23, 1885. — At east end of Schoharie Creek bridge, J. Nailey, laborer, killed, jumped from hand car and was run over by train. Inquiry was made as follows : "What are the rules in reference to allowing hand cars on track, *i. e.*, what employees are allowed to ride on hand cars, and from whom do they obtain permission ?" The company in reply referred to rule 454, page 110, of Book of Rules.

June 26, 1885. — At Whitbeck's crossing, one mile north of Coeymans, Mrs. C. Whitbeck, killed, crossing the track with umbrella up. In reply to inquiry, the company stated that there was no obstruction to the view from the north for one and one-half miles, and that the crossing was a private one.

August 30, 1885. — At Rightmeyer's Fill, two miles east of Catskill, Hennessy Cole, engineer, killed, and Charles Hopkins, baggage master, injured ; the train was running at a slow rate of speed, and at the point above mentioned ran upon a piece of track which had either been washed out or was so soft that the weight of train pushed the earth from under the bed and let the engine and baggage car down the bank. The company, in replying to inquiry, say :

The circumstances attending the accident on this railway, Sunday night, August 30th, whereby engineer Hennessy Cole lost his life, are substantially as follows :

Engineer Cole, engine No. 25, was hauling the Pacific Express north-bound, and was on time. Just before approaching a fill known as Rightmeyer's Fill, just south of Catskill station, in response to a green light which is the signal for caution, shown him by the track watchman, his speed was reduced to about ten miles per hour before arriving at the fill. Just after getting on the fill, the track gave way under the engine and the engine rolled over on its side. Engineer Cole, being caught under the engine, was instantly killed. The baggage car also went down the embankment. The track watchman at this point, James Napiers, has been in the employ of this company as watchman at Rightmeyer's Fill since February, 1883, and has been in the service since the opening of the road, and has always been considered a very reliable man, and vigilant watchman. His statement is that during the interval between the time that train No. 57 passed over the fill and the arrival of train 55, which was two hours and forty minutes, he had walked over this fill twice, and examined the track closely on each occasion.

His last trip over the fill was not more than fifteen minutes before the arrival of train No. 55, when he was on his way down to slow the train up. He says that it was raining very hard, and there was some water running over the fill, but there were no indications of a washout. We are of the opinion that this statement is strictly in accordance with the facts, and believe that had he walked over the track even one minute ahead of the train, he would not have noticed sufficient indications of a washout to stop the train. This proposition is supported by the evidence of the fireman, Mr. W. W. Cole, who states that they were running slow, and the head-light gave them a good view ahead, and the tracks as far as they could see seemed to be in line and all right, but when the engine reached a certain spot in the fill, she sank down, the drivers and front end of tender going down first. This leads me to believe that the fill, which is composed of clay with a road-bed of gravel, became thoroughly soaked with water and was moved out by the weight of the engine. It is reasonable to suppose that had this fill been washed out, the front end of the engine would have plunged into the hole, and the engine would have gone down head first, which was not the case.

This accident has been made the subject of a searching investigation, but without discovering any thing that would attach the responsibility for the accident to any human agency. No doubt a large volume of water fell in the vicinity of this fill between the hours of 11 and 1 o'clock. The accident was one of those that sometimes occur, notwithstanding the greatest care on the part of railroad managers to prevent.

We have regarded this fill as a weak point, and have always kept a watchman there day and night since the road opened for business. I will be glad to give you any further information in regard to this at any time.

Yours truly,

C. W. BRADLEY,
General Superintendent.

The watchman was within 400 feet of where the accident occurred at the time the engine was wrecked.

C. W. B.

September 4, 1885. — At Little Falls the West Shore express, east-bound, ran into the rear of freight train, telescoping the caboose and smashing a box car. No injuries were reported. The Board inquired why the freight train was on the east-bound track; why it was not protected by a flagman, and why the train dispatcher allowed the passenger train to go on when there was a freight train on the track? To this the company made reply by its general superintendent, C. W. Bradley.

WEEHAWKEN, N. J., *September 12, 1885.*

* * * The facts are as follows: The West Shore road is operated in two divisions, Hudson River division, Weehawken to Frankfort; Buffalo division, Frankfort to Buffalo. We have a corps of train dispatchers at Newark, Frankfort and Weehawken. On September 4, our day express east, No. 58, was reported from the Buffalo division over an hour late. This train, when it is on time, passes one of our through freight trains, No. 106, at Frankfort. The train dispatchers on duty at Frankfort in due course of business, acting on the information he had from the dispatcher of the Buffalo division at Newark, decided to run train 106 from Frankfort to Little Falls ahead of train 58, and the necessary orders were given to train 106, and the proper orders given to train 58 on its arrival at Frankfort that train 106 was running ahead of them from Frankfort to Little Falls. The distance from Frankfort to Little Falls is 11.8 miles. Train 58 is due to leave Frankfort at 3:30 P. M.; train 106 is due to leave there 3:40 P. M., but did not leave there until 3:55 and arrived at Little Falls at 4:36 P. M. Train 58 left Frankfort at 4:24 and struck train 106 at west end of Little Falls yard at 4:40, four minutes after train 106 had stopped at Little Falls where they were to take the siding to let train 58 pass them.

After train 106 had received orders to run ahead of train 58 they consumed an unusually long time in getting out of the yard at Frankfort, and used six minutes more than their average time from Frankfort until they stopped at Little Falls. The investigation shows that the conductor of train 106 when he stopped at Little Falls sent his flagman back to protect his train, and he succeeded in getting back a distance of 1,425 feet when train 58 came in sight. At this time train 58 was running probably twenty-five miles an hour, and the engineer had already shut off steam. On seeing the flag, the engineer of No. 58 instantly applied his air brakes, and was almost stopped when he struck the caboose car of train 106.

It was raining very hard at the time and the brakes for some reason did not work as well as usual. The trainmen, while they did not do their full duty under the circumstances are not as much to be censured as the operator at Jacksonburg, the next station west of Little Falls, who, under our "Block System," requiring that a following train shall not be permitted to pass a station until the preceding train is reported past the next station in advance or clear of the main track, neglected to do his plain duty, and let No. 58 pass before No. 106 was reported clear at Little Falls.

The names of the men on the trains are as follows:

Train 106, C. L. Tuttle, conductor; William Sullivan, engineer; John Langar, fireman; Fred. Wheeler, Andrew Warner and John Keating, brakemen.

Train 58, F. E. Wilcox, conductor; D. Pearsall, engineer; C. Farvier, fireman; P. Mills and C. H. Hallett, brakemen.

The dispatcher who gave the order at Frankfort, C. Halligan, Jr., the operator at Jacksonburg, F. E. Griffin.

The operator at Jacksonburg and the flagman of train 106 have been discharged from the service, and the conductor of train 106 and the engineer of train 58 have been suspended indefinitely.

In this matter we feel that the management has done its duty. The conductors and engineers, the dispatcher at Frankfort and operator at Jacksonburg have been in our service since the opening of the road. This is the first instance in which the operator at Jacksonburg has failed to comply with the rules and regulations of the service.

No person on either train was injured and the damage to property was very slight. Train 58, when it struck train 106, was not running more than four or five miles per hour and would have stopped before reaching train 106 if they had fifty feet more to run.

Yours truly,

C. W. BRADLEY,

Gen'l Superintendent.

September 8, 1885. — At first crossing east of Fultonville, John Hoy, while driving horse and wagon over said crossing, was struck by passenger train and instantly killed. In response to inquiry, the company stated that there were no gates at crossing, but a flagman is on duty there between the hours of 6 A. M. and 8 P. M., and the view from the crossing is unobstructed for a distance of 350 feet west of the same.

September 12, 1885. — At Blue Clay Cut, one mile east of Selkirk, Albany county, as train 55 was passing through Blue Clay Cut, the earth from the bank of the cut slid down on the track and derailed the train. Jackson Clark, of Albany, N. Y., engineer, was injured about the breast and his knee bruised, and Eugene Johnson, express messenger, had his nose bruised and sustained a scalp wound. The Board inquired whether any action had been taken by the company to cut down the slope or to build a retaining wall so as to prevent such occurrences in future. The reply of date of October 9 was that the steam shovel was then at work widening this cut.

Northern Central.

June 27, 1885. — At Swamp Gravel Pit one employee and one other injured by derailment of two cars. In reply to inquiry, the company

stated that the cause of the accident was not definitely known. It may have been due to a defective joint connecting rail with heel of frog (the frog was in good order, and the rail fairly good), or it may have been caused by a bent axle. The switch was stub pattern.

Southern Central.

November 25, 1884. — At Wall street crossing, Auburn, Mrs. Ashley Johnson, a passenger in a street car, injured by a collision of train No. 24 with said street car. In response to inquiry, the company stated that there were no gates or flagman, and that the view was more or less obstructed. The brake of horse car gave way, and the horses becoming unmanageable, the car collided with side of passenger car.

Troy and Boston.

July 4, 1885.—Between Troy and Lansingburgh, George Cross, brakeman, injured, knocked from top of caboose-lookout by telegraph wire. In reply to inquiry, the company stated that the wire had been raised.

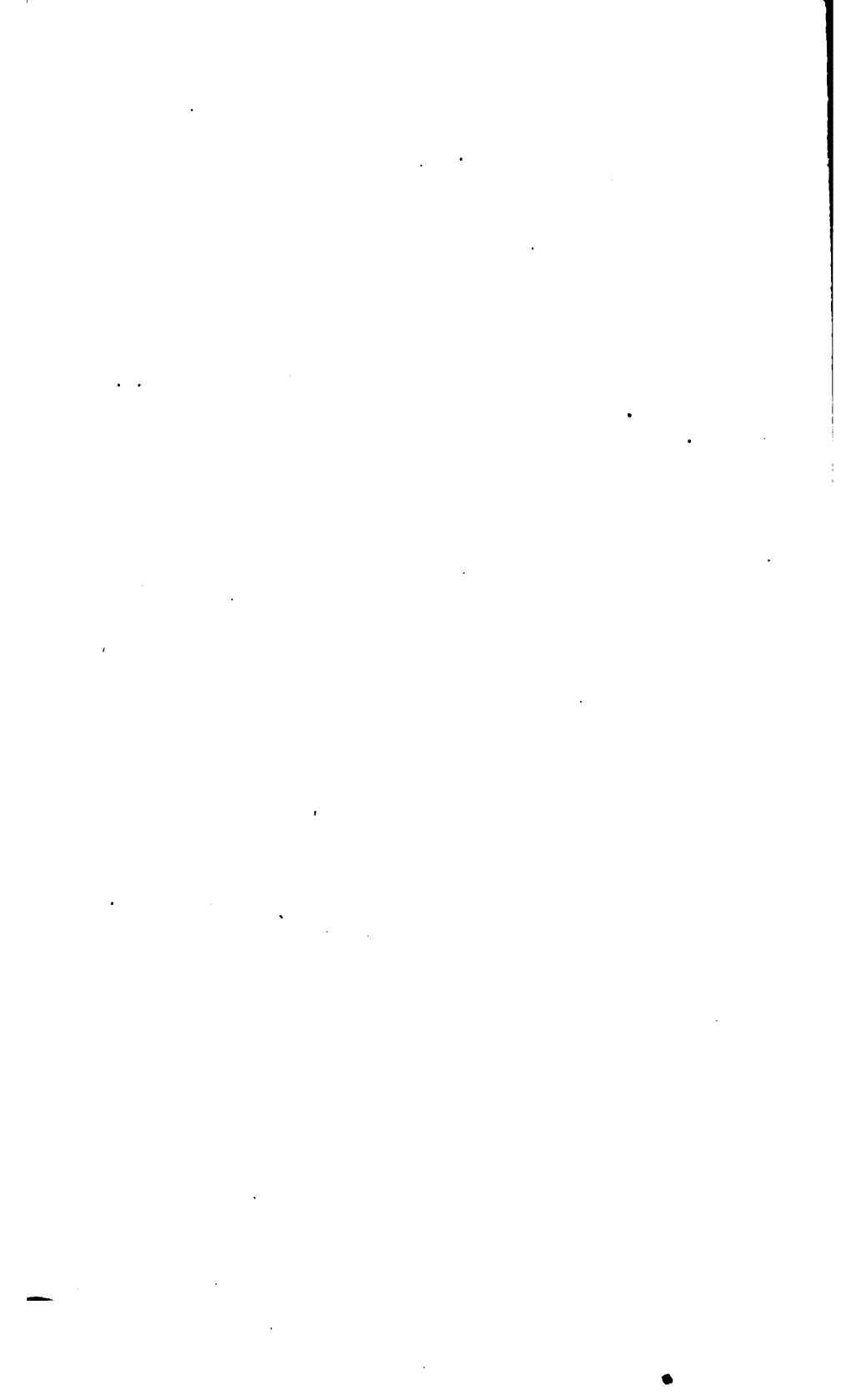
Ulster and Delaware.

April 18, 1885. — At Boiceville, O. Underwood, brakeman, injured, struck by overhead bridge. In response to inquiry, the company stated there were warning signals at all stations on the line of the road.

Utica and Black River.

October 24, 1884. — At River street crossing, Lowville, F. H. Porter, killed, driving across the track. In response to inquiry, the company stated that there were no gates or flagman, and that an approaching train could be seen fifty-one feet before crossing the track, and that this was the first accident at this crossing since the opening of the road.

September 23, 1885. — At the highway crossing at Redwood station, John Toohey attempted to cross the track ahead of the train and was struck by the engine and killed. An inquiry developed the fact that the crossing was not protected by gate or flagman and that the view is unobstructed to highway travelers. Further it was developed that Tooney saw the approaching train and was warned by a companion not to attempt to cross, but persisting, was killed.



CROSSINGS AT GRADE.

I.

**CITIZENS OF THE TOWN OF GLENVILLE, SCHENECTADY COUNTY,
v. THE BOSTON, HOOSAC TUNNEL AND WESTERN RAILWAY COM-
PANY.**

October 22, 1884.

The citizens petitioned for the stationing of flagmen at the Houck and Van Voast crossings, in the town of Glenville.

In answer the company said, that when constructing the road it endeavored to obtain authority from the town to pass the highway at Van Voast's, under the tracks of the road, but was restrained by the town authorities, who compelled the crossing to be made at grade. The company denied the necessity of flagmen at the two points, and intimated that it was only an effort to obtain places for two watchmen.

The Board caused an inspection and report to be made of the premises, by the inspector of the Board, receiving which, it informed the petitioners an inspection discovered the fact that "the effort to make a depressed cut under one of the crossings was prevented by a perpetual injunction, and that the true solution of the difficulty—the transferring of the highway from the upper to the lower side of the tracks—was "also prevented by residents." Under these circumstances, it was the opinion of the Board that the only relief that could be obtained was by stationing flagmen at the points complained of. The petitioners were then notified that the remedy laid in the hands of the town, under chapter 439 of the Laws of 1884, an act drafted and recommended by the Board, to cover such cases as made the basis of this complaint.

II.

**CITY OF KINGSTON v. THE RECEIVERS OF THE NEW YORK, WEST
SHORE AND BUFFALO RAILWAY COMPANY.**

October 24, 1885

The city of Kingston, by its counsel, complained that Smith, Bruyn, Ten Broeck and Foxhall avenues, where crossed by the New York,

West Shore and Buffalo railway, were unprotected by gates, guards or flagmen. That the attention of the receivers to their dangerous condition had been called without relief or remedy. This was a case peculiarly under the provisions of chapter 439, Laws of 1884, drafted by the Board with the view of placing the remedy in the hands of the authorities of the locality aggrieved. A copy of the act was forwarded with the request to proceed under it. The Board was advised that proceedings would be taken under the act by the city immediately.

III.

BROOKLYN, BATH AND CONEY ISLAND RAILROAD COMPANY v. NEW YORK AND SEA BEACH RAILROAD COMPANY.

January 19, 1885.

Engineer C. Burroughs complained to the Brooklyn, Bath and Coney Island Railroad Company, that on November 22, 1884, "when he arrived at Bath Junction, 5.21 P. M., with his train, No. 17, going south, and had just proceeded, being between the Manhattan Beach and Sea Beach crossings, a Sea Beach train from Coney Island, going north, with seven cars, came flying across the junction without stopping whatever, and taking no heed of their flagman stationed there. Had Burroughs with his train slipped, a serious accident might have happened." This complaint the Brooklyn, Bath and Coney Island Railroad Company made the basis of a complaint against the New York and Sea Beach Railroad Company, to the Board, adding that it had "had several occasions already during the summer season to write to the New York and Sea Beach Railroad Company on this subject, but they had paid no heed."

The answer of the New York and Sea Beach Railroad Company was made by a series of affidavits from John E. Kelly, engineer, and Walter Emmons, conductor, respectively, of the alleged offending train, and John J. Watts, flagman at the junction, which, while admitting that the crossing or junction was passed without an actual stop before, still held that the train was slowed up 500 yards from the junction and crossed "dead slow."

These were met by affidavits from G. H. Perkins, conductor of the train of the Brooklyn, Bath and Coney Island of which Burroughs was the engineer, and Burroughs the engineer, denying that there was any slowing, and affirming that the passage was made at the rate of twenty-five miles an hour, and alleging further, that the same had occurred since the date of complaint.

Subsequent to this, the Brooklyn, Bath and Coney Island Railroad Company withdrew its complaint, which the Board permitted, upon the assurance of the New York and Sea Beach, that the law requiring stoppage before passage over the junction would be strictly observed.

IV.

IN THE MATTER OF A PETITION OF CITIZENS OF GREENBUSH, RENSSELAER COUNTY, N. Y., TO COMPEL THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY AND THE BOSTON AND ALBANY RAILROAD COMPANY TO CONSTRUCT A HIGHWAY BRIDGE OVER THEIR TRACKS AT GREENBUSH.

March 17, 1885.

This petition is signed by only two property holders in the town of East Greenbush, viz.: James B. Pratt and W. S. Church, but similar petitions, which were to have been presented to the Legislature, are very numerously signed by residents of the village and townships to be benefited by the proposed bridge.

The subject is properly, therefore, one to be considered by the Board. The petition is given as follows :

" To the Honorable the Board of Railroad Commissioners of the State of New York :

" The petition of the undersigned residents of the town of East Greenbush, and of that part of the village of Greenbush that lies east of the New York Central and Hudson River railroad, and of the Boston and Albany railroad, respectfully shows to your honorable body :

" That the said Greenbush is a growing village and now contains upwards of five thousand inhabitants, and that by reason of a bridge for the accommodation of foot passengers and teams recently constructed over the Hudson river, which greatly facilitates communication between said village and the city of Albany, the said village will be likely from this time to increase rapidly

" That said village has heretofore been confined to a space along said river and extending back therefrom not to exceed one thousand feet where it is shut off from the further extension that it would otherwise naturally make by the said two railroads which there came side by side with numerous tracks for their convenience in making up trains and switching, and which tracks are all of them upon a grade with some or other of the streets of said village that they intersect

" That said bridge over the Hudson river terminates on Broadway, the principal street of said village, and the most westerly street thereof, and directly opposite to a street running east and at right angles to said Broadway, known as Third avenue, which Third avenue was, before the construction of said railroads, dedicated as a street by the owners thereof, and was laid down upon the maps of said village as extending from the said river east to the outside limits of said village. But that the said railroad companies, first the one and then the other, have wholly disregarded the same and the dedication thereof as a public street, and have laid their said numerous tracks upon the same and at the grade thereof, and have wholly excluded the public from the use thereof as public streets, and have appropriated the same solely to their own use and to the use of their said cars, except that the said Hudson River railroad has constructed a bridge across their said tracks on said Third avenue of small dimensions and only for the accommodation of foot passengers who may desire to cross the same.

" That the continuation of said Third avenue, or the part thereof that lies east of said railroads, is now known and called Mechanic street, upon which there are a good number of houses now constructed and occupied by people who have constant occasion to cross said railroad tracks, not only on foot, but with teams and wagons in the daily pursuit of their business.

" That at a short distance from said railroad tracks the said Mechanic street divides itself into two country roads, running many miles back into the fertile agricultural country that adjoins said village on the east, from which a great portion of the milk that supplies the city of Albany is derived and for the daily transpor-

tation of which said Mechanic street is the only avenue that affords them access to the said village and over the said bridge to the city of Albany.

"That upon reaching said Mechanic street persons with wagons or carriages are prevented from reaching the said village except by turning to the south through a street called East street that runs directly by the side of said Boston railroad and parallel to it, which at said Mechanic street is a number of feet above the grade of the said Boston railroad. Proceeding along the side of the same (which is there entirely open and unprotected) for a distance of about four hundred feet, the street descends to a grade that is so far below the grade of the railroad track that carriages and wagons are able to pass under said railroad through an opening made for the purpose and which is on a street called Second avenue in said village that runs parallel to said Third avenue.

"When vehicles have reached this point successfully and perhaps safely, if the horses have not been frightened into running away by the steam whistles blowing above them and upon all sides of them or by the trains that rush past them, they are at once met in front, and within a distance of two hundred feet, by the tracks of the Hudson River railroad which are laid across the street and upon the exact grade thereof. Here they encounter a continual stream of trains at full speed upon some of the tracks or long trains of freight cars upon others, standing still or moving backwards and forwards slowly propelled by steam engines that are almost continually collecting and forming them into trains, so that when an interval of time in which they may cross the track does occur, it is both a dangerous and unpleasant proceeding. Then after reaching said Broadway through said Second avenue, they have to return the same distance of about four hundred feet to reach the said bridge across the river.

"The only other route for these wagons to take on reaching the said Boston railroad, in coming down Mechanic street, is to turn to the north instead of the south and pass through said East street, down one hill and up another, close along said railroad tracks, which are there also entirely uninclosed, a distance of at least a quarter of a mile, to Herrick street in said village, upon which said railroad companies have constructed a bridge over both of said railroad tracks from said East street to said Broadway, and which is, in all respects, a bridge similar to the one your petitioners now seek to have constructed on said Third avenue, and, after crossing the same, they can pass down said Broadway the said distance of near a quarter mile to the said bridge over the river.

"Now your petitioners show that a bridge could be quite as easily constructed on said Third avenue as on said Herrick street. That said Herrick street is far removed from all the outlets of said village and has no outlet of its own, beginning at Broadway and ending in an inaccessible hill a few hundred feet east of said East street. Your petitioners are also informed that said bridge was erected in said Herrick street, instead of said Third avenue, not with a view to accommodate or to benefit the said village or its inhabitants, or those whose business requires them to visit or to pass through said village, but solely to benefit the property of some of the temporary officers or trustees of said village acting in collusion with said railroad companies or intentionally misleading them.

"That said Herrick street bridge over said railroads would be a great advantage and convenience to those who have occasion to cross said tracks with teams and vehicles if it was within reasonable reach to be used. But the great majority of those persons find the said bridge so inconveniently located that they prefer to take the risks of said dangerous crossing to the said remote passage by the said bridge. That to prove the above facts, some of your petitioners, on the 31st of October last, caused a count to be made of the wagons and other vehicles crossing said Herrick street bridge and of those crossing said railroad tracks on said Second avenue, between the hours of six and a half o'clock in the morning and six o'clock in the afternoon, and that the number crossing said Herrick street bridge during said time was 163, while the number crossing said tracks on said Second avenue in the same time was 493, and that the daily disparity between said two crossings is generally much greater.

"Wherefore, your petitioners pray the enactment of a law that said railroad companies may be required to construct a bridge on said Third avenue across said tracks, suitable for horses and carriages as well as for foot passengers, and similar to the one they have constructed on said Herrick street, or that they may be required to remove the said Herrick street bridge down to said Third avenue and there reconstruct it. For which there are other divers good reasons, and

amongst others the numerous accidents and deaths that have occurred at said Third avenue crossing. Also, that these great corporations who derive profits to the extent of eight and ten per cent upon the cost of construction and equipment of their said several railroads, which also includes the cost of constructing such improvements or betterments as are here asked for, should be required to make such improvements and expenditures as will protect the lives and property of citizens of the State through which they pass, and whose daily avocations they interrupt in every known way, that can be secured by expenditure of such small sums of money as would suffice in the case now presented.

"And your petitioners will ever pray, etc.

"Dated GREENBUSH, December 29, 1884.

(Signed)

"JAMES HYDE PRATT,
"W. S. CHURCH."

The following answers were handed in by the Boston and Albany railroad and by the New York Central and Hudson River railroad, respectively :

"THE BOSTON AND ALBANY RAILROAD COMPANY, }
SPRINGFIELD, MASS., February 28, 1885. }

"To the Honorable the Board of Railroad Commissioners of the State of New York :

"The Boston and Albany Railroad Company, answering the petition of James Hyde Pratt and W. S. Church, says that so-called Third avenue, alleged in said petition to be a street unlawfully obstructed by this respondent, is not a legally established street or way, and avers that the use, by said respondent, for its purposes, of the ground covered by its tracks is in accordance with law and not in violation thereof. That Mechanic street, mentioned in said petition as connecting with so-called Third avenue, has only forty-seven houses on it.

"All vehicles passing through said street now obtain easy access to the west side of the village by means of Second avenue, which is distant from Mechanic street, on the east side of said respondent's tracks, 545 feet, and from Second avenue to Third avenue along Broadway is about 475 feet. The way across this respondent's railroad by Second avenue is entirely unobstructed, the highway passing under its tracks. Such vehicles may also reach the west side of the village and the Hudson River bridge by way of Herrick street, which crosses both respondent's tracks and those of the New York Central and Hudson River Railroad Company by an overhead bridge; and this respondent says that these means of approach to the west side of the village are ample for all the travel which now passes or may reasonably be expected to pass between these points.

"This respondent further says that said Herrick street, with its bridge over said railroads, is a more convenient means of access to the west side of the village than can be obtained at any other point, and was laid out not by collusion between the railroads and the authorities of the village, as set forth in the petition, but as the result of protracted litigation between said village and this respondent, as appears by the report of the decision of the Court of Appeals in the fifty-second volume of New York Reports, page 510. Said bridge is about midway between Broadway on the north, and Second avenue, so called, on the south, and accommodates a far larger portion of the inhabitants of the village of Greenbush and people who have occasion to cross said railroads than would be accommodated at any other point, and especially by the bridge asked for by the petitioners.

"Respondent, further answering, says that owing to the character of the surface of the land and the difference of grade of the two railroads, the bridge asked for by the petitioners cannot be constructed except at an enormous and unreasonable expense, as will readily appear from an examination of the profile herewith filed, and the approach to such bridge from the east would involve a serious and undesirable change of the grade of East street between said Herrick street and Second avenue.

"Wherefore this respondent prays that the petition may be dismissed.

"Respectfully submitted by

(Signed)

J. A. RUMRILL,

"Feb. 28, 1885."

"Vice-President."

"NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY, }
 "NEW YORK, February 18, 1885. }

"To the Honorable the Board of Railroad Commissioners :

"GENTLEMEN — I am in receipt of a petition signed by one citizen of Albany and another citizen presumed to be from Greenbush, to your Board in reference to a bridge over Third avenue, in the village of Greenbush.

"The petitioners, I am informed, have no business or property in the village of Greenbush, but that their interests are in Albany and outside of Greenbush village. The same question was raised some years since, and it was proposed to open Mechanic street across our land near the old round-house. The street could not be lawfully opened as proposed, but we erected a foot-bridge that satisfied everybody who lived in the neighborhood and used it, and was interested in the adjoining properties. That foot-bridge has been maintained by us ever since. There is no necessity for a highway bridge at this point. It would necessarily be of a grade so steep as to be impassable for heavy trucks. It is only 200 feet distant from Third avenue to a grade-crossing, which crossing we have thoroughly protected, by both gates and a flagman, in accordance with the general recommendation of the Commissioners. I am informed that this movement was originally instigated by a saloon keeper on the corner of Third avenue, who desires to get rid of the gates, as he thinks that they interfere with the access to his place by desirable customers. There is no general movement of the people of Greenbush, nor even of the people of the locality immediately affected, for this bridge. From the eastern line of the Boston and Albany railroad tracks to the eastern terminus of the Albany and Greenbush bridge, on Third avenue, there is but one dwelling. Third avenue has never been improved above Washington, two squares from the Albany and Greenbush bridge. The board of trustees of the village, by ordinances duly passed, have given to the Albany and Greenbush bridge the use of Third avenue from the Hudson river to the east line of East street, which carries this continuance of the avenue across our tracks, as well as those of the Boston and Albany.

• "Very respectfully,

"(Signed)

CHAUNCEY M. DEPEW,

"Second Vice-President."

A public hearing was had before the Board on Wednesday, March 11th, after which the premises were viewed by the Board.

No evidence was produced by the petitioners to show that the railroads were not lawfully in possession of the property they use in Greenbush, or that they had with collusion or in any illegal manner encroached upon the territory of the town. It is also stated by Mr. Depew, vice-president of the New York Central and Hudson River Railroad Company, and not denied, that the board of trustees of the village, by ordinances duly passed, have given to the Albany and Greenbush Bridge Company (that across the Hudson river) the use of Third avenue from the Hudson river to the east line of East street, under which circumstances the railroads would not be authorized to erect the bridge petitioned for without the consent of the Albany and Greenbush Bridge Company or a revocation of the ordinances.

The inspection of the premises developed the fact that teams coming down Mechanic street (the prolongation of Third avenue) were subjected to a considerable inconvenience in being obliged to turn either to the right or left for some distance in order to cross either the bridge at Herrick street or under the Boston and Albany at Second avenue.

On the other hand, the railroads have been put to large expense in making the crossings where they are now. At the time they were

made they were probably considered the most advantageous points. In consequence of building the bridge across the Hudson river it turns out that it would have been better to have built the overhead bridge on Third avenue instead of Herrick street, but the railroads ought not to be held responsible for not having foreseen this.

The crossing at Second avenue is under the Boston and Albany tracks. On the same street the crossing of the Hudson River railroad tracks is protected by gates and flagmen.

The making-up of trains and switching across this street should be stopped, and it is so recommended.

The Board is impressed with the fact that the crossings generally at Greenbush are not more inconvenient or dangerous than at very many places in the State where it could be claimed with equal justice that overhead bridges should be built at the expense of the roads if they are compelled here; indeed, there are many places where the railroads have been put to *far less* expense than here, yet if compelled to erect bridges it would put them to an expense they would be unable to bear.

In the case of a similar application at Binghamton the Board uses the following language :

" The complainants insist that their right is to have a bridge constructed over the railroads. * * * The Board believes that there are reasons why it ought not at present to recommend such a bridge. Such a recommendation would be a precedent for a large number of similar applications throughout the State, and the Board, therefore, feels itself bound to proceed with caution in the matter.

" When these railroads were constructed they were permitted and authorized to cross this street at grade by the railroad laws of the State, and by the people of Binghamton, through their local authorities acting thereunder. This permission and authority impliedly justifies the railroads in occupying the crossing with their trains for all the reasonable and necessary uses of their business, and to that extent the people are estopped from complaining of the inconvenience involved."

For the above reasons the Board is of the opinion that measures should be devised of general application by which the communities to be benefited should bear a proportionate share of the expense, and not put it all upon the railroads.

The proximity of East street to the tracks of the railroad is not such as to cause serious danger. What there is could be substantially guarded against by the erection of a screen fence on the west side of that street.

By reason of the tracks of the Boston and Albany railroad being along side those of the Hudson River railroad, and ten feet *above them*, the bridge would have to be thirty feet high over the New York Central tracks in order to give twenty feet over top of rail of Boston and Albany tracks and twelve feet over East street.

With its approaches the bridge would be not less than 900 feet long. No estimate of the cost has been furnished by either the petitioners or respondents, but an estimate made by this Board shows that such a bridge as is petitioned for would cost from forty to fifty thousand dollars, depending upon the amount of masonry determined upon in the piers, abutments and approaches.

While the erection of a bridge on Third avenue would be an unquestionable public improvement, it is not just that the railroads, in view of all they have done, should be called upon to bear the entire burden of the expense.

There is no such question of public safety involved as justifies the Board in recommending that the railroads shall abate the danger to the public by building such a bridge as is called for.

Inasmuch as the structure would be a benefit and convenience to the city of Albany, the village of Greenbush and outlying townships, as also to railroads, it would seem that the equitable plan would be for them all to bear the expense in some agreed proportion among themselves, although the Board has no power or authority to make such a recommendation.

By the Board.

WILLIAM C. HUDSON,

Secretary.

V.

CITIZENS OF MONROE COUNTY, TOWN OF RIGA AND ADJOINING TOWNS *v.* THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY.

March 22, 1885.

This petition was treated in the last annual report (vol. 1, page 235). It was reopened January 12, 1885, by the petitioners complaining that the company had not complied with the recommendations of the Board. Correspondence was had with the New York Central company, during which the general superintendent proposed to obviate the difficulty complained of by raising the highway.

To this the Board replied, that "if by raising the highway as suggested by Mr. Toucey, a view of the New York Central west-bound railroad tracks can be obtained by the highway traveler when he is within two or three hundred feet of the crossing, the Board would agree to the discontinuance of the flagman, but until such raising of the highway was done and proven to effect the result claimed, the Board must adhere to its recommendation of November 11th, with regard to a flagman or an electric "bell." To this the company replied, by notifying the Board that a flagman was stationed at the point and would be continued there.

VI.

CITY OF BINGHAMTON *v.* NEW YORK, LAKE ERIE AND WESTERN AND THE DELAWARE, LACKAWANNA AND WESTERN RAILROAD COMPANIES.

April 4, 1885.

This complaint was treated in the second annual report of the Board of Railroad Commissioners (vol. 1, page 152), where will be found the decision and recommendations of the Board in the matter, together

with a statement of the complaint in full. Briefly re-stated, it is that Chenango street, in the city of Binghamton, is crossed obliquely by the tracks of the New York, Lake Erie and Western and by those of the Delaware, Lackawanna and Western Railroad Companies. The tracks of the former road are also used by the cars of the Delaware and Hudson Canal Company. The yards of the Erie lie east of Chenango street; its western outlet is near Chenango street, and the shifting and exchanging of freight cars with the Delaware and Hudson Canal Company and the making up of trains for the main line of the Erie had been concentrated upon and done directly across Chenango street. The evidence showed that the street was thus crossed hundreds of times during each day. This, in the opinion of the authorities, rendered the crossing not only dangerous, but made it an obstruction to the business of the city and they desired its bridging. The Board in its decision declined to indorse the project of a bridge, believing it to be a more expensive relief than the circumstances would justify, but it did insist that the Erie road should energetically carry out a plan proposed by itself for the removal of the switching and exchange of the freight car business at this point, and that the other railroads should likewise remedy the wrong so far as they had aided in maintaining it. This recommendation was made in May, 1884. October 7, 1884, this plan having not yet been carried out by the road, its officers were cited to show cause why the failure should not be reported to the Attorney-General.

In reply to this citation, the general manager of the Erie company expressed the opinion that his company had fully complied with all the requirements. Subsequently the general superintendent informed the Board that he "found, upon carefully considering the question in connection with the requirements of the business of the two companies, that it would not be possible to make any changes or additions that would make such delivery possible at all times and under all conditions, but it would be possible to accomplish a great deal in that direction by putting in a new track parallel with its west-bound delivery track and by making some changes in the connections."

To this the Board replied that "if what he suggested accomplished the result desired it would be satisfactory and would be approved; if not, then it would not be satisfactory."

At this stage of the discussion and effort (November 28) the authorities began to manifest impatience, and notified the Board that the companies had not complied with the recommendations of the Board. The president of the company, Mr. King, made reply by sending the report of the general superintendent, which showed that the switching had been reduced to a minimum and that eighty per cent had been moved to the east of the yard. The Board confirmed this statement by sending its inspector to make an examination, and on sending extracts of the inspector's report to the mayor, said "if this comparatively small number of crossings is still maintained by the New York, Lake Erie and Western Railroad and the Delaware and Hudson Canal Companies, it would seem that the nuisance complained of had been abated." It also asked the mayor to communicate with it upon the subject. This he did by sending a statement showing the number of trains, teams, foot-passengers and street cars crossing Chenango street

on a given day between 6:15 and 7:15 P. M. This statement being confirmatory of the statements of the inspector and the company, ended the matter, and the improvements thus obtained are to-day maintained and the nuisance finally abated.

VII.

VILLAGE OF ADAMS *v.* ROME, WATERTOWN AND OGDENSBURGH RAILROAD COMPANY.

May 20, 1885

This was a complaint that the Rome, Watertown and Ogdensburgh Railroad Company permitted its freight trains to stand on the crossing of Railroad street, one of the principal thoroughfares of the village, obstructing all travel many times in the day, from ten minutes to an hour at a time; and that it had further obstructed the travel by running down on their side-tracks, cars either loaded or empty and allowing them to stand partly or wholly within said street for days and weeks.

When this complaint was brought to the attention of the company by the Board, "imperative orders were given by the company that under no circumstances must a train be allowed to stand on said crossing or cars left to lay over on the street."

VIII.

COMMISSIONERS OF HIGHWAYS AND THE CITIZENS OF THE TOWN OF SCHAGHTICOKE *v.* THE TROY AND BOSTON R. R. Co.

April 14, 1885.

This complaint, signed with sixty-eight names and lodged with the Board November 20, 1884, alleged that the usefulness to the public of two certain highways, used as such for twenty years, was greatly impaired and travel thereon seriously delayed and rendered dangerous where such highways were intersected at grade by the tracks of the railroad, in consequence of the highways being blocked and obstructed by the engine and cars of the railroad company.

The railroad company in its answer by its president, Mr. Daniel Robinson, expressed doubts as to the existence of any real grievance, but informed the Board that he had given orders that "trains must not stop or stand across either highway at that point."

This answer was transmitted to the complainants, but they expressed themselves as dissatisfied and as having no confidence in the promises of the company, and alleged a case of obstruction having occurred on the nineteenth day of December, as a reason, among others, for their distrust. The counsel for the petitioners expressed his opinion that the only way to permanently abate the nuisance was to remove the side tracks from the upper crossing and between the highways.

The season being late and the ground frozen, rendering it impracticable to alter the side tracks without great expense, the Board took no further action until the tenth of April, relying upon the assurance of the president that the highway should not be obstructed. On that date an inspection of the premises was made by Commissioner Rogers and a large number of the residents of the neighborhood interviewed. They were angry and unanimous as to the disregard of the highway travelers shown by the employees of the railroad in obstructing the crossing.

The complaints against the lower crossing were not sustained. The *upper* crossing, however, was found to be bad, of the same kind with so many in the State about which so much complaint constantly exists.

This particular grievance could be best redressed by the construction of an undergrade crossing. The lay of the ground presents no serious difficulties in the way of such construction. The railroad should have made it when originally built; but unfortunately it did not adopt this course, and the danger and obstruction has gone on ever since.

Were it not that the Troy and Boston railroad is in such exceedingly poor physical condition, requiring so much money to be expended in accordance with the recommendations of this Board already made, to bring it to a condition of safety for those traveling on it, the Board would not hesitate to recommend an undergrade crossing at this point. The poverty of the road is such, however, not having earned its fixed charges last year, that the Board hesitates to burden it further at present with an expense not absolutely necessary for safety, if in any other way the danger to the highway traveler can be avoided.

The Board for the present, therefore, recommends :

1st. That the Troy and Boston road shall not permit trains to remain on the main track or side track so as to obstruct this crossing.

2d. That no engine be allowed to remain nearer than 200 feet of the crossing and no car nearer than thirty feet.

3d. That the Troy and Boston road replank the crossing so as to admit of wagons passing over the rails for the whole width of the highway.

The Board further takes occasion to say that if the obstructions continue and complaints are received to that effect it will be under the necessity of positively recommending an undergrade crossing at this point.

By the Board.

WILLIAM C. HUDSON,

Secretary.

IX.

CITIZENS OF ALBANY COUNTY *v.* THE NEW YORK, WEST SHORE
AND BUFFALO RAILROAD COMPANY.

April 27, 1885.

This was a complaint of a dangerous crossing in the town of Bethlehem, county of Albany, upon a highway running through the farm

of James Coughtry; that westerly of the track is a long, steep hill, shutting off the view of approaching trains.

When this complaint was brought to the attention of the company in November, 1883, the company acknowledged the justice of the complaint, especially in the summer season when the trees are clothed with foliage. In the winter, it was represented that the view was unobstructed and the company asked that the matter might rest until the spring, when the matter would be attended to; to this the complainants consented. When the spring was reached the company neglected to perform its promise and shortly after it went into the hands of receivers. When the matter was brought to the attention of the receivers, in August, 1884, they claimed to have no knowledge of, but promised to meet the difficulty. After some delay in November, 1884, the Board was notified by the chief engineer that he had instructions to erect an automatic electric signal gong at the point complained of. It was not until December 20, that the plans for such signal gong were submitted to the Board. On the 24th they were returned approved. On February 13th, the gong not having been erected, a citation was issued to the receiver to show cause why the proposed relief had not been afforded. The answer was that the material was upon the ground but that erection had been delayed on account of the extreme severity of the weather. Finally, notice was given the Board on April 27, 1885, that the gong was in operation.

X.

CITIZENS OF THE TOWNS OF VERNON AND LENOX, ONEIDA AND MADISON COUNTIES, v. THE NEW YORK, WEST SHORE AND BUFFALO AND THE NEW YORK, ONTARIO AND WESTERN RAILWAY COMPANIES.

January 28, 1885.

These complaints were of dangerous crossings at grade and were transmitted to the companies. The reply of the New York, Ontario and Western was that, prior to the receipt of the copy of the petition, an electric bell at the point complained of, giving warning within a mile of the crossing, had been determined and would be put in operation at once. The reply of the New York, West Shore and Buffalo was that the crossing complained of was not of so dangerous a character as to require an outlay and expense to protect it, and that ordinary care upon the part of the traveling public would obviate all danger.

These replies were transmitted to the attorney for the petitioners without answer. A subsequent letter asking if the Board was to understand that the complaint had been abandoned, was also unanswered by the attorney, and the Board ordered the case closed.

XI.

TRUSTEES VILLAGE OF COBLESKILL, SCHOHARIE COUNTY, v. DELAWARE AND HUDSON CANAL COMPANY.

July 18, 1885.

The village of Cobleskill complained of a dangerous crossing upon the outskirts of the village, known as Widow Lawyer's crossing. After a personal examination upon the part of the Board, the complaint was transmitted to the company.

The reply of the company was that there was not good foundation for the making of the complaint, and that the views of the inhabitants were not fairly represented.

The Board, which made a second examination of the premises, suggested to the road the placing of an electric bell at the crossing. This the company declined to do upon the ground that the efficiency of electric apparatus had not been tested to its satisfaction, whereupon the Board decided as follows:

"That an electric bell should be placed at the Widow Lawyer's crossing, as already suggested; that a flagman should be stationed there, and that the highway on the north side of the track should be widened at least two feet more so as to permit a horse and wagon to be turned within fifty feet of the tracks."

The answer of the road to this was a reference to its letter in reply to the complaint.

The Board then cited the president of the company before it to show cause why the failure of the company to comply with its decision should not be presented to the Attorney-General for his consideration and action, December 3, 1884. He appeared by counsel. By request, further action upon the part of the Board was postponed until the first Monday in January, the general manager, in the meantime, to endeavor to effect a satisfactory arrangement with the village authorities.

On January 27, the general manager reported that the trustees of Cobleskill had, by resolution, agreed to the proposition made by the company to change the location of the crossing to the next street west of the Widow Lawyer's crossing.

To this the Board replied that if the arrangement as reported was satisfactory to the village, the Board would agree to it.

On May 26, 1885, the village authorities being requested by the Board reported that the Delaware and Hudson Canal Company had not complied with the recommendation of the Board. Upon the request of the Board to know just what action the trustees had taken, the president of the village reported that the representative of the company had met with the Board, had submitted a proposition and had promised at that time to make a survey so as to determine what the cost of moving the bridge involved in its proposition would be, and what proportion it was expected the village should pay.

A copy of this was sent to the company, and the reply was that a proposition in due form had been submitted to the trustees. Communicated with as to whether the village would or would not accept

the proposition, the president replied that it declined the proposition, as under it the village was required to pay most of the cost. Simultaneously came a letter from the company announcing the decision of the village authorities not to accept the proposition, and that the company had placed a flagman at the crossing. This being satisfactory to the village, the case was closed.

XII.

NIAGARA FALLS AND SUSPENSION BRIDGE RAILWAY COMPANY v. THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY.

July 21, 1885.

By Com. KERNAN — This is a complaint alleging that at the crossing of the tracks of the street car company over the tracks of the defendant there is need of gates to be kept closed when the trains and engines of the defendant are passing.

The situation has been inspected in company with the officials of each road. There ought to be gates erected at once in the interest of public safety; the tight board fence between the street and the New York Central depot obstructs the view of those using the street in approaching the defendant's tracks, and should be replaced by a picket fence. The Board recommends that safety-gates be erected by the New York Central and Hudson River Railroad Company, and tended at all hours when the street car line is in operation, and that the fence be changed as suggested.

Inasmuch as the defendant's tracks were first located and built, it would seem equitable that the street car company should pay part of the original cost of the construction of the gates. The share of the street car company ought not, however, to exceed one-quarter of the cost of the gates, as it has but a single track, while the defendant has a number of tracks, uses the crossing much more extensively, and creates the danger to be avoided.

The Board recommends that the complainant pay to the defendant one-quarter of the cost of construction of the safety-gates recommended.

By the Board.

WILLIAM C. HUDSON,

Secretary.

XIII.

SAMUEL CAMPBELL ET AL. v. DELAWARE AND HUDSON CANAL COMPANY AND THE DELAWARE, LACKAWANNA AND WESTERN COMPANY.

August 15, 1885.

This complaint represented that the crossing between the city of Utica and the town of New Hartford, over the tracks of the Delaware, Lackawanna and Western Railroad and the Delaware and Hud-

son Canal Companies, opposite the Faxton hospital, was in a dangerous condition. The tracks were at the bottom of a hill; that there was no watching and that there was great travel of trains, freight, coal and passenger, over the tracks.

The Board, by Commissioners Kernan and Rogers, inspected the premises with representatives of the two roads and of complainants, and an agreement was reached that gates should be erected and tended by watchmen.

XIV.

IN THE MATTER OF THE COMPLAINT OF JAMES MERRIMAN AND OTHERS *v.* THE DELAWARE, LACKAWANNA AND WESTERN RAILROAD COMPANY, ON ACCOUNT OF THE SWITCHING OF CARS ON SCHUYLER STREET ACROSS COLUMBIA AND WHITESBORO STREETS, IN THE CITY OF UTICA.

August 25, 1885.

This complaint was presented to the Board on the 10th of June. It alleges that the Delaware, Lackawanna and Western Railroad Company are daily switching cars on Schuyler street (through which the railroad enters the city), across Whitesboro and Columbia streets, in order to reach its coal sheds and trestles on the Erie canal near the terminus of Schuyler street; that it thus causes frequent and unnecessary interruptions of travel on said streets; that the ringing of bells and blowing of whistles are very annoying and injurious to the sick; that Whitesboro and Columbia are the principal streets in that part of the city, Schuyler street being the principal highway to Maroy, Deerfield, and adjoining towns.

The petitioners further allege that there is a sufficient quantity of land west of the coal sheds and trestle, "which can be obtained at fair value by purchase or commissioners' appraisal," which if acquired by the railroad would enable it to do the shifting and switching on its own land, thus relieving Columbia and Whitesboro streets.

The petitioners then pray this Board for relief.

The petition was duly sent to the railroad, and on June 5, after due notice to parties in interest, an inspection of the premises was made by the Board.

A subsequent complaint and petition, signed by thirty names representing property holders in the vicinity, has been handed in. It makes substantially the same allegations as the first, and furthermore states that "hundreds of children, the pupils of the schools attached to St. Joseph's Church, to Trinity (Lutheran) Church, to Zion Church, and of the public school on Hamilton street, are exposed every day to injury or death by the way in which this switch is used, and its improper location; that funerals at those churches, and at St. Patrick's and St. Luke's, are interrupted and annoyed by the switching."

The inspection by the Board developed the fact that a serious nuisance existed. A man was detailed by the Board to count the number of switch engines across Columbia street and Whitesboro street,

the number of wagons across Schuyler on Columbia, and on Whitesboro, and certain other details, from 7 A. M. to 8 P. M., for six days. A copy of this report is annexed.

The Board is of the opinion that the switching and making up of trains across Columbia and Whitesboro streets should be discontinued.

The right of entrance and exit for its regular trains to and from its own land is all the railroad should, in justice, demand. This is a considerable danger and nuisance to a thickly-settled community such as exists here, but is unavoidable if the railroad is operated at all; the additional switching and shifting, however, should be immediately discontinued.

RECOMMENDATION.

The Board recommends that the Delaware, Lackawanna and Western Railroad Company take immediate measures to discontinue, and do hereafter discontinue, switching cars across Whitesboro and Columbia streets, in the city of Utica.

By the Board.

WILLIAM C. HUDSON,
Secretary.

CROSSINGS AT GRADE.

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7 A. M. to 8 P. M.	Switch engine across Columbia street.	Switch engine across Whitesboro st.	Number wagons across Schuyler on Columbia.	Number wagons across Schuyler on Whitesboro.	Number street cars across Schuyler on Columbia.	Regular trains.	Number coal cars switched, and time.
Monday, July 13, 1885.....	26	33	173	244	52	17	8 cars at 8.25 A. M.; 2 cars at 8.30 A. M.; 4 cars at 9 A. M.; 4 cars at 10.45 A. M.; 4 cars at 8.55 P. M.; 1 car at 5.30 P. M. 19 cars main track at 10.10 A. M.; 31 cars main track at 2.40 P. M.
Tuesday, July 14, 1885.....	17	22	187	263	48	16	9 cars at 9 A. M.; 2 cars at 8.30 P. M.; 8 cars at 4 P. M.; 1 car at 4.05 P. M.; 10 cars at 4.55 P. M.; 4 empty cars at 5.30 P. M.; 8 empty cars at 12.55 P. M. 17 cars main track at 8.05 A. M.; 15 cars main track at 10.05 A. M.
Wednesday, July 15, 1885.....	21	45	280	345	48	15 1 extra train.	6 cars at 9.10 A. M.; 5 cars at 10.10 A. M.; 8 cars at 10.25 A. M.; 1 car at 10.30 A. M.; 8 cars at 2.40 P. M.; 2 cars at 2.45 P. M.; 10 empty cars at 1 P. M. 9 lumber cars main track at 4 P. M.; 10 coal cars main track at 8.55 A. M.
Thursday, July 16, 1885.....	18	36	281	356	52	13	6 cars at 7.45 A. M.; 1 car at 10.35 A. M.; 8 cars at 2.30 P. M.; 8 cars at 8 P. M.; 8 cars at 5.25 P. M.; 8 cars at 5.30 P. M.; 11 empty cars at 7.10 A. M. 21 cars main track at 10 A. M.; 3 freight cars at 4 P. M.
Friday, July 17, 1885.....	33	43	258	305	52	16	4 cars at 8.50 A. M.; 2 cars at 9.50 A. M.; 2 cars at 2.15 P. M.; 4 cars at 4.15 P. M.; 2 cars at 4.25 P. M.; 6 cars stone at 6.50 A. M.; 10 empty cars at 7 A. M. 18 cars main track at 8.15 A. M.; 9 empty cars at 8.40 A. M.; 12 cars main track at 9.45 A. M.; 1 freight car at 10.50 A. M.; 8 empty cars at 1.10 P. M.; 8 empty cars at 2.30 P. M.; 6 cars at 4.10 P. M.; 29 cars main track at 5.20 P. M.
Saturday, July 18, 1885.....	25	34	285	396	52	16	8 cars at 7.15 A. M.; 2 cars at 10.30 A. M.; 2 cars at 1.10 P. M.; 8 cars at 4.10 P. M.; 4 cars at 4.15 P. M. 15 cars main track at 8.20 A. M.; 17 cars main track at 9.50 A. M.; 7 empty cars at 12.45 P. M.; 8 empty cars at 12.50 P. M.; 3 cars at 2.20 P. M.; 7 cars at 4.05 P. M.; 6 empty cars at 5 P. M.

XV.

TRUSTEES VILLAGE OF CORTLAND *v.* THE SYRACUSE, BINGHAMTON
AND NEW YORK RAILROAD COMPANY.

September 16, 1895.

This complaint averred that four crossings in the village of Cortland, to-wit, Elm, Mill, Railroad and Port Watson streets, were dangerous and should be protected.

The reply of the company was that none of them were dangerous, and that the trains did not run over them at a high rate of speed. Railroad street was at the north end of the village passenger depot, at which all trains came to a full stop; Elm street was the first street north, and there was but little travel over it; Port Watson street was the first one south, and the only one between the depot and the Utica, Ithaca and Elmira railroad, where trains had to come to a full stop, and that Mill was an unimportant street.

In company with representatives of the village and of the company, Commissioner Kernan inspected the points complained of, and subsequently reported to the Board that he had agreed to a suspension of proceedings for thirty-five days, in order to enable the railroad company to make improvements at the crossings agreed upon.

At the expiration of this time, the clerk of the village, having been requested by the Board to report, stated that the company had not made the improvements at the crossing complained of, as promised.

A copy of this letter was sent the company, and the reply of the company was that the improvements, *i. e.*, widening of the crossings and the filling in between the rails with plank, stone and gravel, as agreed upon before Commissioner Kernan, had been done, and the attention of the Inspector of the Board, when passing in inspection of the road, had been called to the completed work.

A copy of this communication was sent to the village authorities with a request to answer. No answer has been received, and it is presumed it was satisfactory.

LENGTH OF STEAM RAILROADS

IN OPERATION SEPTEMBER 30, 1885.

[SMALL CAPITALS indicate lessee; indentions indicate leased or operated lines.]

	Miles in State of New York.
Addison and Northern Pennsylvania.....	10.50
Adirondack.....	60.00
Bath and Hammondsport.....	9.50
Boston and Albany.....	56.63
BOSTON, HOOSAC TUNNEL AND WESTERN.....	54.70
Hoosac Tunnel and Saratoga.....	15.52
Saratoga Lake.	10.00
BRADFORD, ELDERED AND CUBA.....	23.71
Wellsville, Bolivar and Eldred.....	20.62
Brooklyn, Bath and Coney Island.....	7.00
Brooklyn, Flatbush and Coney Island	7.50
Brooklyn and Rockaway Beach.....	3.50
Buffalo Creek.....	4.26
BUFFALO, NEW YORK AND PHILADELPHIA.....	200.40
Genesee Valley Canal.....	98.90
Genesee Valley Terminal.....	2.46
Mayville Extension.....	3.50
Olean, Bradford and Warren.....	12.53
CATSKILL MOUNTAIN.....	15.73
Cairo.....	3.78
Chateaugay.....	34.33
CLOVE BRANCH.....	4.25
New York, Boston and Montreal (trustees).....	4.01
Conesus Lake.....	1.70
Cooperstown and Susquehanna Valley.....	16.25
DELAWARE AND HUDSON CANAL COMPANY.	
Lackawanna and Susquehanna (owned).....	17.65
Schenectady and Mechanicville (owned).....	9.93
Albany and Susquehanna.....	142.51
Albany and Vermont.....	12.18
Cherry Valley, Sharon and Albany.....	20.99
Glens Falls.....	15.12
New York and Canada.....	149.94
Rensselaer and Saratoga.....	110.15
Rome and Clinton.....	12.70
Saratoga and Schenectady.....	21.56

	Miles in State of New York.
Schenectady and Duaneburgh.....	13.79
Utica, Clinton and Binghamton.....	31.30
West Troy and Green Island.....	1.08
DELAWARE, LACKAWANNA AND WESTERN.	
Cayuga and Susquehanna.....	34.41
Greene.....	8.10
New York, Lackawanna and Western.....	207.29
Oswego and Syracuse.....	34.98
Syracuse, Binghamton and New York.....	81.00
Utica, Chenango and Susquehanna Valley.....	97.41
Valley.....	11.64
ELMIRA, CORTLAND AND NORTHERN.	94.34
Auburn Branch New York, Ontario and Western.....	20.22
Canal.....	5.28
FALL BROOK COAL COMPANY.	
Corning, Cowanesque and Antrim.....	15.64
Penn Yan and New York.....	6.50
Syracuse, Geneva and Corning.....	57.75
Fonda, Johnstown and Gloversville.....	26.17
GENEVA, ITHACA AND SAYRE.	113.35
Hayt's Corners, Ovid and Willard.....	2.99
Greenwich and Johnsonville.....	14.65
Hartford and Connecticut Western.....	41.60
Herkimer, Newport and Poland.....	16.73
Kaaterskill.....	7.50
LACKAWANNA AND PITTSBURG.	79.86
Rochester, New York and Pennsylvania.....	11.75
Lake Champlain and Moriah.....	7.66
Lake Shore and Michigan Southern.....	71.00
Lebanon Springs.....	52.10
Lehigh and Hudson River.....	15.10
Long Beach Marine.....	4.00
LONG ISLAND.	173.03
Brooklyn and Jamaica.....	9.68
Brooklyn and Montauk.....	67.08
Brooklyn and Rockaway Beach.....	2.65
Far Rockaway Beach.....	9.41
Glendale and East River.....	2.72
Hunter's Point and South Side.....	1.51
Long Island City and Flushing.....	7.85
Long Island City and Manhattan Beach.....	1.46
New York, Bay Ridge and Jamaica.....	8.16
New York and Long Beach.....	6.06
New York and Manhattan Beach.....	5.44
New York and Rockaway.....	8.91
Newtown and Flushing.....	3.97
Smithtown and Port Jefferson.....	19.01
Stewart.....	16.34
Woodside Branch.....	3.99
Marine.....	2.00
Middleburgh and Schoharie.....	5.75

	Miles in State of New York.
Newburgh, Dutchess and Connecticut.....	58.84
NEW JERSEY AND NEW YORK.....	18.15
Garnerville.....	1.00
NEW YORK CENTRAL AND HUDSON RIVER.....	748.74
Amsterdam, Chuctanunda and Northern.....	1.50
Dunkirk, Allegheny Valley and Pittsburg.....	42.30
Geneva and Lyons.....	14.12
New York Central and Niagara River.....	2.81
New York and Harlem.....	134.06
Niagara Bridge and Canandaigua.....	98.46
Spuyten Duyvil and Port Morris.....	6.04
Troy and Greenbush.....	6.00
New York, Chicago and St. Louis.....	68.07
NEW YORK CITY AND NORTHERN.....	52.90
West Side and Yonkers.....	1.16
NEW YORK, LAKE ERIE AND WESTERN.....	484.34
Avon, Genesee and Mount Morris.....	17.56
Buffalo, Bradford and Pittsburg.....	7.81
Buffalo, New York and Erie.....	139.95
Buffalo and South-Western.....	68.39
Erie and Genesee Valley.....	12.25
Erie International.....	4.26
Goshen and Deckertown.....	11.65
Lockport and Buffalo.....	13.89
Middletown and Crawford.....	10.22
Montgomery and Erie.....	10.22
Newburgh and New York.....	12.59
New York, Pennsylvania and Ohio.....	49.24
Northern Railroad of New Jersey.....	1.44
Nyack and Northern.....	4.38
Rochester and Genesee Valley.....	18.26
Suspension Bridge and Erie Junction.....	23.28
New York and New England.....	30.72
NEW YORK, NEW HAVEN AND HARTFORD.....	14.05
Harlem River and Port Chester.....	11.80
NEW YORK, ONTARIO AND WESTERN.....	296.60
New York, West Shore and Buffalo.....	58.65
New York and Sea Beach.....	6.00
NEW YORK, SUSQUEHANNA AND WESTERN.....	
Middletown, Unionville and Water Gap.....	13.00
New York, West Shore and Buffalo.....	385.16
New York, Woodhaven and Rockaway.....	10.34
Northern Adirondack.....	11.93
NORTHERN CENTRAL.....	
Chemung.....	17.80
Elmira, Jefferson and Canandaigua.....	46.70
Elmira and Williamsport.....	6.50
Sodus Bay and Southern.....	33.60
Ogdensburgh and Lake Champlain.....	118.00
PENNSYLVANIA AND NEW YORK CANAL AND RAILWAY CO.	
Waverly and State Line.....	1.00

	Miles in State of New York.
Port Jervis and Monticello.....	23.75
Poughkeepsie, Hartford and Boston.....	36.16
PROSPECT PARK AND CONEY ISLAND (steam).....	5.75
New York and Coney Island.....	2.41
Rochester and Lake Ontario.....	6.05
Rochester and Ontario Belt.....	6.00
ROCHESTER AND PITTSBURG.....	166.21
Perry Railroad.....	1.03
ROME, WATERTOWN AND OGDENSBURGH.....	375.57
Oswego and Rome.....	28.49
Niagara Falls Branch.....	8.74
Syracuse, Phoenix and New York.....	15.74
Saratoga, Mount McGregor and Lake George.....	10.50
Schoharie Valley.....	4.38
Silver Lake.....	6.50
Skaneateles.....	6.00
SOUTHERN CENTRAL.....	114.00
Ithaca, Auburn and Western.....	37.72
Southfield Branch.....	1.00
STATEN ISLAND RAPID TRANSIT.....	1.17
Staten Island.....	13.00
Sterling Mountain.....	7.60
Stony Olove and Catskill Mountain.....	14.30
Syracuse, Ontario and New York.....	43.49
TIOGA.	
Elmira and State Line.....	6.52
Tonawanda Valley and Cuba.....	59.09
TROY AND BOSTON.....	34.74
Troy and Bennington.....	5.09
Troy Union.....	2.14
ULSTER AND DELAWARE.....	78.00
Hobart Branch.....	3.61
UTICA AND BLACK RIVER.....	133.94
Carthage, Watertown and Sackett's Harbor.....	29.59
Clayton and Theresa.....	15.87
Wallkill Valley.....	33.46

INSPECTIONS.

ADIRONDACK RAILROAD.

The last inspection of the Adirondack railroad previous to this report was made July 27, 1883, and its condition at that time may be found in the first volume of the Commissioners' report for that year, at page 323.

Considerable improvement has since been made in nearly all departments of the property, and while the general outline remains the same, in detail, a better physical condition prevails. Last fall five miles of sixty-five pounds steel rail with angle plates was laid; releasing considerable good iron for repairs. There are now about thirty miles of chair and twenty-two miles of fish joint iron in the road; most of it being in good order, at least not over worn.

A number of the truss bridges noted in last report as old, and requiring trestles under them, have been rebuilt. The following is an outline of the present condition of all the trusses and openings: Commencing at Saratoga the first is a Queen truss over a highway. It is twenty-four feet span and quite new. At Hadley's, crossing the Sacandaga river, there is an extensive structure, consisting of five spans of deck Howe truss, all resting upon an excellent quality of bridge masonry. The center or river span is 180 feet long, and the top of rail 100 feet above the river; this span is in good sound condition. At each end of the center span there is one of 110 feet, and the extreme south span is sixty-three feet, and north span fifty-six feet in length. All of the trusses, except the river span, rest at each panel point upon new timber bents, so constructed as to permit the continued operating of the road while new trusses are being erected. No attempt at rebuilding the old trusses is intended this year. The trestle-work presents ample strength without danger from ice or drift-wood. Woolf creek bridge north of Hadley's is a deck Howe truss fifty-six feet in length, and in good order. At Stony creek there is a Howe truss 132 feet span now on trestles and undergoing thorough repair, also the section of truss rods is to be increased as advised by the Commissioners. A sixty-five feet span low through Howe truss follows, about two years old, and in good life. At the crossing of Patterson creek north of Thurman is a fifty feet span Howe truss, nearly new; this bridge is to have additional section of truss rods. At the Glen there is a new Howe truss through, eighty feet span; also to have enlarged truss rods. At Avery creek there is a fifty-six feet span through Howe truss in good strong life, and crossing Mill creek there is a through Howe truss of ninety feet span in sound condition. At North creek there is another Howe truss exactly similar to the last structure. The additional or enlarged rods are now in place or delivered where wanted.

All of the trestle bridges, waterways and cattle-passes or guards were carefully inspected and none found so far deficient in life or section of stringer as to be at all unsafe; they were all found in good condition and show the same care in maintenance as reported in 1883. All the highway warning signs are in place, except one near Thurman's, and the low overhead obstructions are properly guarded. Only in a few instances has a standard floor system been provided for the truss bridges and minor openings. All of them have ties more or less widely spaced but without spacing ribbons or guard rails, an omission that should be remedied.

The fencing is considerably broken, and more attention to its maintenance is desirable. The side ditches, road-bed, ballast, ties, and line and surface of superstructure are in good condition and very workmanlike. The chair-iron presents a very excellent appearance, and care is taken that joint ties, if in the least decayed, are promptly removed. The brush and undergrowth of timber has not been cut

out to the right of way lines, but the cutting of noxious weeds on some repair sections was in progress. Stub switches are still in general use.

The station buildings show care for the comfort of the public, being orderly, well furnished and cleanly. Some of them have been painted, and two new ones constructed. At Saratoga the depot of the Delaware and Hudson Canal Company is used. "South Flint" is a new station in excellent order. Jessup's Landing, although small, is very tidy and comfortable. "Hadley" is a good depot, with covered platform. "Stony Creek" depot is small but well maintained. "Thurman," for a number of years the northerly terminus, has a good two waiting-room depot. "The Glen" is a flag station. "Riverside" has a good station building with covered platform. "North Creek," the present terminus, has a good depot with one waiting-room, but not as tidy in appearance as most of the others.

The equipment was examined as far as practicable, and found in good order, in fact, considerable improvement was noticed, and new coaches have been added to the passenger equipment, and one new locomotive since the last inspection. Generally the road shows no stint of labor or material to keep it in good, safe and comfortable condition for public use.

BOSTON, HOOSAC TUNNEL AND WESTERN RAILWAY.

In the State of New York, the main line of the Boston, Hoosac Tunnel and Western railway extends from the Vermont State line to Rotterdam Junction, where connection is made with the New York, West Shore and Buffalo railroad, a distance of fifty-four and three-quarter miles. In addition to this main line, the company lease the Saratoga Lake railroad, from Saratoga to Ketchum's, ten miles; the Hoosac Tunnel and Saratoga railroad, from Ketchum's to Saratoga Junction near Mechanicville, seven and one-half miles, and from Schuylcr Junction near Saratoga to Schuylerville, eight miles, making a total of eighty and one-quarter miles operated. Of the above, that portion of the main line between Rotterdam Junction and Mechanicville, a distance of twenty-two miles, was opened for public use about January 1, 1884, and subsequent to the last inspection, which was made during the summer of 1883. This new portion of main line is of first-class construction in all respects. The curvature is slight, and grades reduced to least minimum and well sustained. All the masonry is of a substantial character, in good order, and constructed for double track; and much of the grading provides for that contingency. The road-bed is well ballasted and ditched. The ties are mostly oak and chestnut spaced 2,800 per mile; rail steel, sixty pounds per lineal yard secured with angle plates and laid alternate suspended joints, and the line and surface of track is in good order. The small openings as well as the truss spans have a very competent flooring, securely bolted to iron girders. Cattle guard-pits are generally omitted and slats on ties form the guard. The roadway is inclosed with a four strand barbed-wire fence, and roadway quite free from old debris, but the cutting of bush and weeds omitted at time of inspection. This portion of the road parallels nine miles of the road of the Delaware and Hudson Canal Company, and no local business between Scotia and Mechanicville is done. There are several extensive truss bridges. Near Rotterdam, the Mohawk river is crossed with four spans pin-connected truss; at the crossing of the New York Central and Hudson River railroad is a heavy riveted truss and a span of 150 feet over a ravine near Hammond. All of the iron work of these trusses is well painted.

The road between Mechanicville and Vermont State line was opened in 1879. A careful examination was made and nothing found defective in maintenance or in construction, which is of the same character as the newly-built portion, only possibly not so heavily designed. The long iron structure over the Champlain canal and the Hudson river has been newly floored, and the defective masonry noted last inspection, rebuilt, and all trusses advised by the Commissioners to be strengthened, have been thus treated. Near Valley Falls, at crossing of Hoosick river, a new pin-connected truss has been erected; also two iron viaducts for overhead highways near Reynolds' station. The fencing is posts and boards very well maintained. The ties are in good life, but the maintenance of line and surface of superstructure is lower than noted in 1883, showing a want of repair force for the great increase of tonnage over the line.

The Saratoga division between Mechanicville or Saratoga Junction and Saratoga, and the Schuylerville branch, has been in operation about three years. It is of

lighter construction than the main line and the volume of traffic is much less, yet upon a careful inspection nothing was found defective or insufficient.

The road-bed is of good width, and for the most part fairly drained, but lightly ballasted. There are no truss bridges, and where masonry is used for abutments at minor openings, it is of a good quality; they are spanned with timber girders and provided with a competent floor. Some of the cattle-guards have iron rail for stringers. The ties are in good, strong life; rail steel, fifty-six pounds per yard, secured at joints with angle plates, and laid as on the main line. Near Ketchum's Corners, is a twenty-four span trestle about thirty feet high; a few poor track stringers were noticed in this structure. Near Saratoga lake is a fifty-span low pile trestle crossing the outlet and constructed for a double track, all in good condition. Between Schuylerville junction and Saratoga, a distance of eight miles, the road-bed and masonry provides for a double track.

The Schuylerville branch, eight miles in length, was found in a better condition than presented in 1883. There is considerable pile and trestle bridging on this branch. At the crossing of Fish creek near the Junction, there are thirty spans of pile trestle and a flood bridge of eleven spans; these are followed with an eighteen span of bay trestle, and another of forty spans west of Victory Mills. East of the mills there is a sixty-eight bay trestle through the mill yard and averaging sixteen feet in height. There are a number of single and double span trestles, all of which are in good sound condition and competent for the weight imposed on them. This branch has been more or less re-surfaced and ballasted. Entering the village of Schuylerville, the road occupies a portion of the highway, and the whole has been surfaced with gravel and brought to a uniform grade. The general maintenance of line and surface of superstructure is quite ordinary.

A brief outline of the station buildings of the road and their condition is as follows:

At Rotterdam Junction, only a small depot is provided.

At Mechanicville the large brick Queen-Ann depot of the Delaware and Hudson Canal Company is occupied.

Schaghticoke has a good brick station with two waiting-rooms, well furnished and cleanly.

Valley Falls has a one waiting-room depot in good order.

At Johnsonville a small, poorly furnished building is provided.

Buskirk's is a new station, located since last inspection; the building has one waiting-room, small, but cleanly and well furnished.

At Eagle Bridge there is a good depot, well furnished.

Hoosick Falls has a clean, bright building, with two large, well-furnished waiting-rooms, and at Hoosick there is a smaller depot with one waiting-room in like condition.

Ketchum's Corners has a small station.

At Saratoga lake there is a short spur track running to the steamboat landing and a summer hotel owned by the company.

At Saratoga there is a wood structure with one large waiting-room, with crude sittings for so important a place; a long, covered platform is also provided.

Victory Mills has a small depot very little used, and Schuylerville has a one waiting-room depot, cleanly and fairly furnished.

The repair shops of the company are located at Mechanicville. They are provided with sufficient machinery for the ordinary repairs of engines and cars.

BRADFORD, ELDRERD AND CUBA RAILROAD.

This three feet gauge railroad was reported last year in connection with the Tonawanda Valley and Cuba railroad, but now these roads are operated entirely independent of each other.

A general outline of the Bradford, Eldred and Cuba, and its leased branch, the Wellsville, Bolivar and Eldred railroad, may be found at page 385 of the first volume of Commissioners' report for 1883.

As at present operated, the main line in this State commences at Wellsville, and extends to Ceres and to the Pennsylvania State line. The branch from Bolivar to Richburgh is not operated, and the Bradford, Eldred and Cuba railroad, between Cuba and Little Genesee Junction, a distance of about twenty miles, was closed last fall, and reopened about July first of present year.

This last portion of the property is in about the same condition as previously reported. The timber in trestle work and sleepers is yet in strong life, and the rail in fair order, but the maintenance of line and surface of track has been neglected, and they are not in as good condition as when last inspected. It is not intended to operate this branch during the present winter now near at hand.

The main line, between Wellsville and Pennsylvania State line, twenty-four miles in length, is in very good order. Considerable attention has recently been given to the improving of the line and surface of track, and the superstructure is in workmanlike condition.

Mostly hemlock ties are used, many of which have been renewed this year, but a larger number of new sleepers will be required next season to bring the whole up to good strength.

The ditching of road-bed has been improved, and portions of the superstructure ballasted.

The rail is generally in good condition, but a reinforcement with new material will be necessary the coming year.

There is little if any masonry in the road-bed; nearly all the openings are spanned with trestle work, from one to three bays each, and at the crossing of Genesee river, near Wellsville, there is considerable in the approaches to the Howe trusses spanning that stream. This trestle work is to be thoroughly overhauled next season.

All the timber work has been carefully examined within a few weeks, and renewals made where needed.

There are two Howe truss bridges on the main line, both of which are stated by the superintendent to be in good physical condition, but have not received the additional tie-rod at center of end braces to prevent undue flexure, and the truss-beam near Ceres has not been re-enforced as advised by the Commission; iron rods, it was stated, have been ordered for these structures, and will soon be in place.

The roadway is generally well fenced, and there are no overhead obstructions. The highway crossings are each provided with caution signs.

All the station buildings were examined, and found in fair order and neatly kept, but some of their platforms were found broken, and their better maintenance should be observed.

As far as possible, the equipment was examined and the passenger cars were found in good order and cleanly. The motive power appears in good condition, and is very well kept up. Air brakes and Miller couplers are now used on all passenger rolling stock. Generally the road shows considerable improvement of its main line over that of last year's inspection.

BROOKLYN, BATH AND CONEY ISLAND RAILROAD.

The improvements urged by the Board of Railroad Commissioners upon the property of the Brooklyn, Bath and Coney Island Railroad Company, deemed necessary by the inspection reports of May 28 and December 4, 1884, have during the present season been further complied with.

The road-bed has been raised to a more uniform grade, and considerable ballasting has been done. Ties have been extensively removed, until now they are in reasonably good order. Attention has also been given to the lining and surfacing of track, making a smoother riding road, but considerable more work is necessary to bring the superstructure to the condition of the other railroads leading to the same summer resort. Steel rail to some extent has been laid, and about 700 tons of new rails are delivered for renewals. The large depot at Coney Island has been repaired and made to conform more to the necessity of prompt movement of the large summer travel passing over the line. The pile and draw-bridge over Coney Island creek is now in good condition.

The equipment of the road is in about the same condition as last year, except a few of the cars have been painted. The motive power is well maintained, and the entire property shows some improvement.

BROOKLYN, FLATBUSH AND CONEY ISLAND RAILROAD.

Early in the season a very careful examination was made of this and the other lines of railway operated to accommodate the very large travel between the cities of New York and Brooklyn and the sea shore in their immediate vicinity.

The pile bridge over Coney Island creek has now a competent floor and well guarded both inside and outside the rails. The superstructure did not present as workmanlike maintenance as last season. The road-bed requires drainage in the cuttings, and near the tunnels at the northerly end of the line the cuttings are sloped about forty-five degrees, and many exposed boulders were noticed that were liable to fall upon the track, the superstructure was uneven, and many too low joints were noticed. As before stated the inspection was made quite early, and probably these defects were remedied before the summer travel began. There was a large renewal of ties last season, and a further renewal to a considerable extent is necessary. The terminal depots have been renovated and the equipment put in good, clean condition; also the intermediate stations have received like attention. As a whole the road may be said to be in reasonably good order.

CATSKILL MOUNTAIN RAILROAD.

A careful inspection of this narrow-gauge road was made immediately before its opening for summer travel this season. The road was not operated during the last winter and spring. A branch road from near South Cairo to Cairo village, a distance of three and a quarter miles, was nearly completed at time of inspection, and has been leased or merged into the Catskill Mountain road. This branch will become the main line, and will be operated as such between Catskill and Cairo the entire year.

The station and pile bridge for station yard at Catskill landing are the same as noted in last inspection. Improvement has been made in the street through which the line passes in Catskill, by raising the entire roadway to a uniform grade, and at a few other points the road-bed has been improved by raising abrupt undulations. Considerable ballasting and re-surfacing of track has been done, yet much further work of like kind is necessary to protect against the action of frost, as hereafter the road is to be operated during the winter. The line and surface of track has to some extent been improved, yet as a whole it is not in as workmanlike condition as desirable. All of the truss, pile, and trestle bridges were examined and found to be in sound condition. The three iron bridges over Catskill creek have been improved in their flooring, but have not been painted, and they are being damaged by this neglect. There are about twenty-seven trestles and pile bridges, of one or more spans, and the same objections are made to the flooring of these structures as in the last report; a competent flooring is certainly on the side of safety and should be provided.

No change has been made in any of the station buildings; they were all inspected and found in good condition.

The passenger equipment shows exposure to the weather, but the inside of the coaches are very bright and in excellent order. The motive power was thoroughly overhauled this past winter.

CHATEAUGAY RAILROAD.

The last inspection of this narrow gauge road was made in 1888, and a report of its condition at that time may be found on page 880 of the first volume of the Railroad Commissioners' report for that year.

The inspection made this season revealed considerable improvement in the condition of the property, and the road may be classed among the best of its gauge in this State.

No changes have been made in the general outline of the road proper, but the owners of the road and of the iron mining property are extending the line as a private enterprise, and not for public use, to a newly erected blast-furnace about four miles distant from Rogersfield, the terminus of the Chateaugay railroad.

The whole of the Chateaugay road is strongly inclosed with posts and board fencing, and the roadway is very neatly kept for its entire width.

All the narrow embankments have been well shouldered out, and the ditching and ballasting of road bed thoroughly completed.

The ties are mostly of spruce timber, of good size, and spaced about 3,000 per mile. They have been so thoroughly reinforced the past two seasons that nearly all of them are not more than three years old.

The road is now all laid with steel rail of forty-five and fifty-six pounds weight per yard, and to a considerable extent secured at joints with angle plates, and the line and surface of the superstructure are in the best condition.

Between Plattsburgh and Dannemora, five pieces of trestle work aggregating 1,500 feet in length have been filled up, and good arch culvert masonry constructed in these fills for the passage of water.

At the crossing of the Haranac river, where formerly was a Howe truss bridge, new masonry abutments have been built, and a seventy-five feet span deck riveted truss erected in its place. This structure has inside guard rails extending to the embankment approaches, and its construction is excellent in all respects.

There are two pieces of trestle work remaining east of Dannemora; these will probably be filled next season.

Between Dannemora and Lyon Mountain or Rogersfield there are ten pieces of trestle work, from five to twenty-two spans of fourteen feet each, and from ten to thirty feet in height. Their total length is about 2,000 feet, and being of more recent construction, the timber in them is in very good condition, but the ties on them are too widely spaced for safety in case of derailment, and no guard rails or spacing ribbons are provided, which in fact was the only reasonable objection to the maintenance of the superstructure; some of the ties on these trestles which have been neglected, should be renewed, as it is the intention to fill all the trestle work as rapidly as possible. All trestle bridges are provided with water barrels, and watchmen examine each structure after the passage of every engine.

There is very little passenger business on the road, and the equipment for that purpose is small, but sufficient for all demands. The passenger cars are neatly kept, and bright and whole inside. The motive power is well maintained, and each locomotive has independent air brakes, which on the one hundred and seventy feet per mile maximum grade are very desirable.

No changes have been made in the station buildings, and the only defects noted are the uncomfortable sittings provided for waiting passengers. A little attention to the wants of the public in this respect would undoubtedly be appreciated.

COOPERSTOWN AND SUSQUEHANNA VALLEY RAILROAD.

The last inspection of this road was made September 18, 1888. Since that time the property has been greatly improved by the laying of fifty-six pounds steel rail the entire length of the road, except a short distance noted in last inspection, and at depots where the old style of crossing plates and stub switches are yet in use do not admit readily of a higher patterned rail; the completion of an iron lattice truss at the crossing of the Susquehanna river north of Milford; the rebuilding of several minor openings, and also improved by a large renewal of ties. These cross-ties, however, are as a whole too low in condition for a perfect maintenance of superstructure and economy in wear of rail.

The pile trestle crossing the Susquehanna river at Phoenixville has considerable old timber, and the piling is in poor condition; also the 140 feet span through Howe truss over same stream near Portlandville has settled below a horizontal line, and the arch reinforcement attached does not act in unison with the truss; these two bridges should be rebuilt. It was stated that an iron bridge was to be erected in place of this last structure, but in the interval it was advised that bents be placed under it.

With the exception of the new iron bridge and the few openings lately rebuilt, all of the pile bridges and trestles have too widely spaced ties, and are destitute of guard rails or spacing ribbons, a defect sure to prove serious in the event of a derailed wheel passing over them.

A few of the cuttings require ditching to properly drain road-bed, and provide against the action of the frost.

There is a low overhead crossing on the steep grade near the junction with the Albany and Susquehanna railroad, not provided with warnings for train men, an omission that should receive attention.

The station and office building at Cooperstown has been painted and otherwise improved, and now presents a more creditable appearance.

At Milford there is a very poorly maintained and constructed depot building, furnished with narrow benches; the accommodations are unfit for use of passengers. It is proposed to change the site of this station, and either erect a new building or remodel the old one; one or the other result should be promptly effected.

The passenger equipment and motive power have lately been supplied with the Eames vacuum brake, but the old link connections are still in use. The passenger cars are weather beaten, but clean and whole inside. The motive power appears to be well kept up. In general, a further attention to re-tieing; the renewal of bridges stated; the supplying of good, strong flooring to all openings now destitute, and the improvement of drainage, and the line and surface of track would bring this road to an excellent standard of maintenance. The passenger equipment should also be renovated or new coaches provided, to make them such as the business of the line appears to demand.

DELAWARE, LACKAWANNA AND WESTERN RAILROAD.

This company operates in the State of New York, as lessee, the following railroads: The Valley; New York, Lackawanna and Western; Cayuga and Susquehanna; Oswego and Syracuse; Greene, and the Utica, Chenango and Susquehanna Valley railroads, aggregating about 384 miles in length. Of these the Valley railroad from Pennsylvania State line to Binghamton, eleven and one-half miles, and the New York, Lackawanna and Western railroad from Binghamton to the international bridge at Buffalo, 200½ miles, are together known as the main line; the former has been in operation about fourteen, and the latter little more than three years.

The main line was rapidly inspected, but with sufficient care for a road so thoroughly constructed and maintained. It has a wide road-bed, well filled out at angles, and a space of thirteen feet between centers of tracks; the grades and curvatures are slight, the roadway neat and free from weeds and underbrush, and strongly inclosed with a post and board fence; the road-bed is thoroughly ballasted and, with few exceptions, well drained; the ties are of large size, spaced about 8,000 per mile, and maintained in strong condition; the entire main line is double tracked, with sixty pounds steel rail, laid alternate suspended joints, secured with angle plates; the main tracks have the Wharton safety switch and sidings are provided with safety rails to prevent fouling with main track, and all bridges and openings have heavy iron trusses and girders, and provided with a substantial flooring. The masonry in culverts, abutments and piers is of a permanent character and excellent workmanship. The cattle guards, if open pits, are spanned with iron girders, or they are of slat construction, and have the cross fences well brought up to them.

The grade highway crossings are all provided with warning signs, and important crossings protected with flagmen and gates.

The superstructure was found in excellent surface and line, and rail in perfect order; care was evidently taken to perfect the ballasting before opening the line for traffic. There are many heavy iron trusses of one or more spans; they were each examined and found well protected with paint from corrosion.

The station buildings are all of modern style, well adapted for the public use, and in size sufficient to meet the growing wants of each locality. They were found clean, bright and orderly, and well furnished with comfortable sittings; many of the grounds, surrounding the depots, are embellished with tasteful lawns and flower beds. The depot at Binghamton is of somewhat temporary construction; at Elmira, Owego and Buffalo, large brick buildings are provided.

Between East Buffalo and Black Rock the line crosses several railroads over grade, and was, at first, temporary pile and timber trestles; these are now nearly all filled, making a substantial road-bed.

At the foot of Erie street and on the Erie basin, the company have coal pockets cleverly arranged, so that even within a limited space, large amounts of coal are quickly transferred from cars to lake vessels. The company own grain elevators in same locality. At Elmira the company have a storage yard of fifty acres, partly occupied with nests of sidings, and at East Buffalo are still larger provisions for side tracks and terminal facilities.

Cayuga and Susquehanna Division,

From Owego, including the bridge over the Susquehanna river to Ithaca, a distance of about thirty-five miles, all single track, and excepting the one-half mile of new road and bridge at Owego, has been in operation about forty years.

At the crossing of the Susquehanna river at Owego there are eight spans of iron pin-connected trusses, 135 feet in length each, with the three southerly spans on a

six degree curve; the whole is of the best construction and rests upon abutments and piers of excellent masonry.

In the village of Owego the New York, Lake Erie and Western and the Southern Central railroads are crossed at grade, each provided with signals and watchmen. The alignment of this road is considerably curved. From Owego, twenty-four miles, to the summit, the grade rises only 200 feet, and from the summit to the level of Cayuga lake the grade falls 568 feet in eight miles. This fall was so precipitous that what is termed a switch back, one and one-half miles in length, was introduced, to overcome the want of distance for a direct grade.

A careful examination of this division revealed a maintenance much below that of the other roads operated by the company in New York, and it was stated that the business of this branch had so far decreased as scarcely to warrant a better road, yet latterly, effort was being made toward an improved condition, which was verified by observable late renewing of bridging and rails.

The road-bed is ample in width and grade well sustained throughout, but the roadway is neglected in the removal of weeds and underbrush, and the fencing is, as a whole, dilapidated and more or less broken down. Wire-fencing is used in renewals, of which a large amount is necessary to properly inclose the roadway. The ditching of road-bed is too much neglected, and the ballast for a greater part of the line has been in use so long as to be little better than common soil.

The ties on some portions of the road are in strong life, but on others they are, as a whole, too old for a firm support of the rail. With the exception of about seven miles, the road is laid with sixty pounds steel, the balance is iron rail of about same weight but much worn, and should be renewed. The line and surface of track was found to be in quite too ordinary condition, and nearly the whole requires adjustment.

There are a number of Howe truss-bridges in variable condition. North of Owego, and crossing the Cattatunk creek, is a 100 feet span through Howe truss one year old, and about 500 feet of trestle flood bridge attached and on a curve. The timber appears in good life, and is sufficiently strong in section, as are all the trestles; but the rail rests directly upon the stringers, and this absence of a proper flooring is objectionable, as against safety, in case of derailment. The same objection exists on nearly all the trestles and minor openings in road-bed. The next structure is a 120 feet span through Howe truss covered; then follows two 100 feet spans of through Howe truss, and another of 120 feet span of like construction. All these bridges are in good life of timber, but without ties between the rail and track stringer. The masonry sub-structures are good, both in quality of work and condition. The next bridge is a through Howe truss of two 100 feet spans, new, followed by a similar structure of 110 feet spans in good condition. North of Candor is a through Howe truss of two 100 feet spans, two years old, followed by another of 100 feet spans built this season, and has a good standard floor. Near Ithaca are two low truss through Howe bridges of forty and thirty feet spans; these are old structures, and have in them considerable partly decayed timber; they should be renewed. At Ithaca and crossing Mud creek are two through Howe trusses of 126 and eighty feet spans that are too old for much further use, and bents were advised to be placed under them to insure present safety.

There is considerable trestle bridging on the line, beside that first mentioned, of from one to fifteen spans. They were all carefully examined and found well maintained; some have been newly overhauled or entirely rebuilt. They have large members, but are destitute of flooring, except in one or two instances; an omission that should be supplied. Many of the through bridges have insufficient head room for trainmen top of box-cars, and no warnings are provided.

At Candor there is a good two waiting-room depot, and at Ithaca a like structure, only of larger size; both were found cleanly and well furnished. All highway signs in place and stub switches in general use.

Owego and Syracuse Division,

Thirty-five miles in length, single track, and in operation about thirty-seven years. On the lake at Owego there are coal-pockets of 10,000 tons capacity, built in 1881, and now in good sound condition. At the same point are sidings convenient to the water front, for general freight purposes. From thence the road runs southerly, and rises rapidly, using the street bordering the Owego river, and

then passing under cross streets by means of tunnels, so low as scarcely to allow a box-car to pass through them, and thence to the brow of the table land bordering the lake, to a connection with the main line, and site of the passenger depot. From thence the road runs almost due south through a flat and open country, to the city of Syracuse. The alignment is quite direct, with very few and easy curves, with a grade that is nominal, except a short stretch of twenty feet per mile rising over the Erie canal at Syracuse, making a total elevation of 115 feet between the top of plateau at Oswego and Syracuse. The roadway is about 100 feet wide, very neatly kept, and the entire width and fencing fairly maintained. There are no short undulations in the road-bed, and it is quite wide and well drained.

Very little good ballast being attainable, cinders have formerly been used for that purpose; recently a good quality of gravel from fifty miles south, on the Syracuse, Binghamton and New York railroad, has been drawn, and with this portions of the superstructure have been raised and newly adjusted. The ties are of soft and hard wood, mostly the latter, and spaced about 8,150 per mile. Generally they are in good, sound condition, and renewals were at hand to replace those unfit for further use.

The rail is all steel, sixty-seven pounds per yard, laid mostly at opposite joints and secured at ends with angle plates. Stub switches and cast-iron crossing plates were noticed frequently, but point switches and spring rail frogs for all, not already provided, were delivered along the line.

Considerable improvement in the line and surface of track was noticeable. While none was found in poor maintenance, those portions recently slightly raised and surfaced with the better gravel before-mentioned, presented a remarkable workmanlike appearance. It is intended to continue the re-surfacing until the whole line is in like superior condition.

There are but three truss-bridge structures on the road: One is a riveted lattice, low through truss of forty, fifty and sixty feet spans, 350 feet total length, crossing the Seneca river; one single span over Nine-mile creek of like construction, and a through riveted truss over the Erie canal at Syracuse. These bridges have a good floor system and rest upon substantial masonry—all in good order. All the minor openings were examined and generally found in good condition. There is mostly masonry abutments at these smaller openings, and but few timber trestles. The flooring of these small openings were not all of them as substantial as desired; a few however have been lately renewed, and iron beams with close tying, with well secured ribbons, provided. All these minor openings will be floored in like manner as fast as renewals become necessary.

At Oswego there is a large two-story brick depot, with two waiting-rooms on lower floor, and general offices in second story. The waiting-rooms have a somewhat dingy appearance but were cleanly and fairly furnished. Fulton has a two waiting-room depot in good order. Lamson's has a one waiting-room depot, well furnished. At Baldwinsville the depot has an old, much worn appearance. A renovation of some of these stations would add to the comfort of the public. At Syracuse, the depot of the Syracuse, Binghamton and New York railroad is used. At Oswego are repair shops of some extent for the repair of engines and cars and building of new equipment, but latterly the line has been consolidated in management with the Syracuse, Binghamton and New York railroad, and now largely the repairs are made at Syracuse.

Near the grade crossing of the Auburn branch of the New York Central and Hudson River railroad, the company have a very completely arranged nest of side tracks. Frequently between two and three thousand cars daily are handled on them, a feat almost impossible within the limited space occupied under the old style of yard tracks. It was noticed that all highways and low over-head obstructions were provided with warnings.

Utica, Chenango and Susquehanna Valley, and Greene Railroads.

These roads, extending from Utica to Greene, and the branch from Cassville junction to Richfield Springs; and the Greene railroad, from Greene to Chenango Forks, a total distance of 105½ miles, comprises the Utica division of the Delaware and Lackawanna and Western railroad—all single track.

Between Utica and Waterville, and most of the Richfield branch, the grades are heavy and curvature excessive; from Waterville to Chenango Forks the grades are

light, but line considerably curved, often very abrupt; there is, however, one tangent six miles in length.

The roadway and fences of the entire division are in good order; care is taken to keep the property clear of weeds, underbrush and old material, and the fencing is well maintained, with renewals of good barbed wire construction. The road-bed throughout is of ample width, and with few exceptions, well drained and ballasted with good material. The ties are mostly of chestnut and oak timber, of large size, spaced fully 3,000 per mile, and generally in good, strong life. The rail is steel, sixty to seventy pounds weight per yard, laid alternate suspended joints with angle plate and Verona washer fastenings. The old-fashioned stub switch is still extensively used; a few point switches are now in use, and the spring rail crossing plate is generally adopted.

The maintenance of line and surface of track is admirable, and presents a finished appearance, and all highways and over-head obstructions are provided with signs and warnings. At greatly exposed crossings, gates have recently been erected. Lamps for night signals are provided at all switch stands out of main track, and all exposed sidings have throw-off switches to prevent the obstruction of main track.

There are twenty-seven truss-bridges on the Utica division, one of which is of iron and is a pivot-draw, over the Erie canal at Utica. All the others, except a twenty-four feet span Queen truss near Bridgewater, are through Howe trusses from one to fifteen years of age, and of one or more spans, from thirty to 150 feet in length. They are exceedingly well constructed, have iron between all wood bearings, and have been kept thoroughly painted, but not otherwise protected from the weather. Evidently there is an abundance of timber in these trusses, but the rods were not upset, and seem deficient in strength for the increased weight of present equipment. Strain sheets of all bridges are now being prepared for the Commission by the company, which will determine the stresses imposed. They all have a competent flooring, and are well guard railed; a few of the short spans rest upon pile abutments; all the rest have good, substantial masonry substructures.

Of these trusses the following were found more or less deteriorated by age and decay, but just how far it is difficult to determine, without a careful probing inspection of old timber that has been kept painted: Between Washington Mills and Chadwick's is a sixty feet span low Howe truss having a few quite too old floor timbers, and a 110 feet span through truss in like condition. Near Bridgewater is a twenty-four feet span Queen truss now shored up. It is in poor condition generally and one chord badly decayed. The bridge spans a shallow channel, and the blocking is removed to allow passage of ice. It would seem to be an excellent place for a through plate girder. At the crossing of the New York, Ontario and Western railway near Sherburne Corners, is a through plate girder with floor beams suspended; the beams are too old and should be renewed, and the girders require painting. South of North Norwich are two through Howe trusses crossing the Chenango river, each 150 feet length of span. These trusses are old and lower chords opening at end joints. Bents are now placed under these structures at first and second panel points. South of Norwich, and crossing the Canasawacta creek is a two fifty feet span low Howe truss, that has been severely used by constant shifting over it in former years. Some of the floor beams and one lower chord member are badly decayed. Bents were advised to be placed under center of each span. South of this last structure there is a through Howe truss of two 123 feet spans. The timber appears to be in good life, but the lower chords have opened at ends of members and clamps have been added. All the bridges south of Norwich are fifteen years old. At the crossing of Lyon's brook is a fifty feet low truss that showed too much action under passing trains, and bent was advised to be placed under center of truss. At Coventry is a similar structure with floor beams considerably decayed; others were at hand for renewal, but until stress of iron is determined a bent at center was advised. At the crossing of Wheeler's creek is a similar structure; it has a few too old floor timbers and wall plates decayed. The chord members of these fifty feet spans are all throughs, but age and apparent weakness under moving trains seemed to require bents under centers as a precaution against failure. At the crossing of the Chenango river above Willard's are two 150 feet spans of through Howe truss having a number of floor beams partly decayed. The lower chords show movement at splices, and clamps have been added. Some of the main braces show defects at their lower bearings;

a few have been renewed. This bridge should receive a thorough overhauling, or a new structure provided, as bents are not available by reason of ice flow. At the crossing of the same stream, near Chenango Forks, is a similar structure in like condition of lower chords; otherwise it appears in good order. Ice flow presents the same objection to bents, if they should be necessary.

All the minor openings, trestles, and pile bridges were examined and generally found well maintained; some of these, however, were found too old and partly decayed. The attention of those in charge was called to all observed defects, and your Inspector was advised that repairs and renewals would be promptly made. A number of the small openings, and portions or the whole of some of the trestles, could be advantageously filled up.

At Utica the new passenger station of the Delaware and Hudson Canal Company is used, and at the same place shops are located for the repair of engines and cars, and a new locomotive of excellent build has lately been constructed. The shops are brick, very contracted, and evidently insufficient; the machinery being cluttered up and intermixed, necessarily so by reason of contracted space. New shops, certainly desirable, are contemplated, to meet the requirements of the division. A new brick fifteen stall engine-house is located near the site of the proposed shops. The station buildings at New Hartford, Clayville, Richfield Springs, and all south of Sherburne, are of good design, well furnished, convenient, and, generally, were found neat and orderly. At Cassville junction, Bridgewater, Unadilla Forks, West Winfield, Cedarville, North Brookfield, Hubbardville, Poolville and Earlville, the station buildings are not as good, yet they were found in reasonable order, but at Washington Mills, Chadwick's, Sauquoit, South Columbia, Waterville and Sherburne, the station buildings and conveniences are entirely unfit for the purposes and places to be accommodated, either in cleanliness, furnishing, maintenance, or capacity; one, or all of these objections are so prominent as to call for speedy remedy.

ELMIRA, CORTLAND AND NORTHERN RAILROAD.

On page 887 of the first volume of Commissioners' report for 1883, and page 259, same volume of 1884, are the first and supplementary reports upon this line of railroad.

This year, May 12, 1885, a careful detailed inspection of the whole property was made, revealing further improvements in its condition, and betterments added, since the inspection made September 18th of last year.

The entire line, with the exception of about nine miles of steel-capped rail from Elmira northerly, is now laid with fifty-six and sixty pounds steel rail fastened with angle bars at joints, which are laid alternate and suspended, and thus removing all the old broken iron rail heretofore so objectionable, particularly between Cazenovia and Canastota.

The re-ballasting of all portions of the line where necessary, and drainage of road-bed, has not yet been done, but the superstructure was found in reasonably good line and surface, and a few of the repair sections — notably, section 12 — were very creditable in these respects.

The further renewing of ties, that had been allowed in former years to fall so low in condition, was in progress. The ties are of oak, chestnut and hemlock timber, the hard woods being used on all curves, and, as a further protection, outside rail braces are used.

The cutting of weeds and underbrush were neglected last fall, and old track debris allowed to remain along the roadway; the fencing, much of which is too far dilapidated and broken, and the warning signs at many highways yet wanting, are items of maintenance that have received little attention, the large amount of absolutely necessary work on bridges and superstructure being paramount. Another year will probably show a better condition of the property in these respects. All the bridging, of which there is a large amount, was examined. Commencing at Elmira, the first truss consists of two fifty feet spans of Kellogg-Whipple quadrangular truss, with wooden chords, crossing Newton creek. These spans are on bents at each panel point. South of Breesport, crossing same stream, is a two fifty feet span Howe truss, showing weakness at chord splices. It is supported by bents with ends of posts resting upon bed of stream; a new bridge is necessary. South of Swartwood, on the maximum grade of 120 feet per mile, are two Phoenix column iron viaducts with Fink trusses between piers. They have new

standard floors. The northerly viaduct is on a two and one-half degree curve, and the approaches are too narrow, the slopes of the embankment commencing at the ends of ties. Between Swartwood and Van Etten, crossing Cayuta creek, is another Kellogg truss of two fifty feet spans resting upon bents at each panel point. These two Kellogg trusses are to be rebuilt this season. Between Spencer and West Candor are several truss bridges. The first is a low Howe truss of two forty feet spans, in poor condition, and has bents at centers; the floor timbers are widely spaced and some of them partly decayed. The next structure is a two sixty feet span, low Howe truss, resting each on two bents. This bridge is unfit for further use and should be rebuilt. The next bridge is a two fifty feet span Howe truss in fair order, and followed by a fifty feet span in like condition. The next two bridges are Howe trusses — one of two fifty feet spans and the other a single span of fifty feet — both in very poor condition, and should be renewed. Near West Candor is a two fifty feet span low Howe truss, very old, and resting on bents. The next truss is near Wileysville, and is a thirty feet span pony Howe truss in poor life of timber; these two bridges should be rebuilt. All of these trusses are probably too light for the present weight of motive power.

The next structure of importance, the most so of any on the road, is the Brookton trestle, 1,800 feet in length, and averaging nearly seventy feet in height, located on a tangent and crossing a ravine in which there is a stream and highway. There are 120 bents, fifteen between centers, spanned with three seven by fourteen inch stringers under each rail, and bent timbers of twelve inches square section. A careful inspection was made, and but few old timbers found in the structure. A number of carpenters are constantly employed renewing timber and watching for any defect; 200,000 feet measurement of timber has been renewed within two years, and the structure appears sufficiently strong to support the traffic at the low rate of speed used in crossing. The ties are closely spaced, and heavy outside guard timbers and inside iron rail, extends over the whole structure. A very good earth borrow pit is close at hand to fill the trestle, which will probably be gradually done, or an iron viaduct constructed.

Between Truxton and Cuyler is a three seventy feet span Howe truss partly decayed and resting upon bents. This bridge should be renewed.

There is a large amount of trestle work and pile bridging in this road. Many of these structures are new and in good order, while others show excessive age and more or less decay, and should be rebuilt as soon as possible. A full detail may be obtained from the field notes taken at the time of inspection. North of Cortland the timber trestles have mostly been rebuilt, and that work was still progressing. Between DeRuyter and Cazenovia iron girders are generally used for stringers at short openings, resting upon a good quality of masonry. The slopes of heavy clay through cuttings between same points have moved, and piles were driven to hold the material away from the tracks. These piles are now generally decayed and the sliding material will have to be removed. The low arch under-crossing north of Cazenovia has not been removed, and no warnings were in place. The old-fashioned stub switch is still used. The shops for repair of engines and cars are now located at Cortland. The buildings are temporary but well supplied with machinery. At Elmira a new Queen Anne brick station-house and general offices have lately been erected; also a four-stall brick engine-house. At Horseheads there is a newly remodeled, well furnished depot with a covered platform at one end. Breesport and Erin have new, well furnished one waiting-room depots. Swartwood has a small station, cleanly but poorly furnished with sittings, and broken platform; Van Etten has a new depot in excellent order. West Candor, Wileysville and Brookton have small station accommodations, but well maintained. At Ithaca there is one large waiting-room well furnished but untidy. Etna has a good, neat, well furnished station. Freeville has a small station, and is the grade-crossing of the Southern Central railroad. At Cortland there is a very orderly, bright, well painted and furnished depot. Truxton has a good station building well furnished but broken platforms, and Cuyler is in like maintenance. DeRuyter has a large station, but was found untidy. Woodstock has a poorly furnished depot but cleanly. Cazenovia has a good passenger station with car-house attached, and Perryville has a one waiting-room depot, comfortable and cleanly. At Canastota the New York Central and Hudson River railroad station is used. Nearly all the way-stations have a freight department attached. Generally a great improvement in the property has been made within the past few months, which must be gratifying to the patrons of the road.

In answer to the above report the following letter was received from Mr. Austin Corbin, president of the road. His statement with regard to the bridges was subsequently corroborated by a letter from Mr. McLeod, the general manager of the road:

ELMIRA, CORTLAND AND NORTHERN RAILROAD COMPANY, }
115 BROADWAY, N. Y., Sept. 17, 1885.

W. C. HUDSON, Esq., Sec'y :

DEAR SIR — I am in receipt of your favor of the 16th, covering report of your Inspector, which I notice was made as long ago as May 12. Since that time I think nearly every one of our bridges have been rebuilt. But I have sent the report forward to-day to Mr. McLeod, our general manager, and asked him to make me a report in relation to it, and as soon as I have this will write you further.

Our intention has been, and is, to make the road as perfect as a road can be, and it will be within a reasonably short time. We are now contemplating the building of an iron bridge at Brookton, the only question being whether there will be time enough to get in our masonry before the cold weather sets in. In the meantime we have had our "Long Island" engineer, who is a very competent man, go there twice to inspect it. He says that it is perfectly safe for any trains we run over it, and that the only danger we need apprehend, at any rate until another season, is that of fire.

Respectfully yours,

AUSTIN CORBIN, *President.*

I see your Inspector makes no complaint of the Brookton structure.

FALL BROOK COAL COMPANY, LESSEE.

Syracuse, Geneva and Corning Railroad.

This road was last inspected in the fall of 1883, and in first volume of Commissioners' report of that year, at page 839, may be found the report of its condition at that time.

The recent examination found the roadway and fencing in as good condition, and the superstructure as well maintained in line and surface, as the previous inspection. About thirty miles of seventy-six pounds steel rail has been laid, which is in excess in weight of any other rail used in the State, unless at points of almost continuous wear, like the Fourth avenue depressed line of the New York and Harlem railroad. The ties are hemlock timber on tangents, and one-fifth hard wood on curves. They are well kept up by thorough renewing, and all curves are rail-braced.

The steel is laid mostly alternate suspended joints, secured with angle plates.

The stub switch remains in the superstructure except where renewals and additions have been made, notably on the south end of the road, where the point switch is used, and all sidings are provided with throw-off switches.

All highway crossings and over-head obstructions are provided with warnings.

In the renewals of trestle work at short openings, masonry abutments and iron girders have been substituted, and many openings have been filled and culvert masonry built for drainage. The work of renewing trestle work with masonry and iron is being extensively done this season. A number of openings destitute of competent flooring, are yet in the road; one near Ayers, between two stub switches, fifty feet apart; and at Rock Stream is a three-throw switch adjoining an open cattle-guard. These should particularly have flooring, as well as all the open floor structures. Many of the trestles have been filled up, and two short truss spans dispensed with, by changing channel of stream.

The greatest and most desirable improvement made is in substituting iron for wooden trusses, noted in the last report as imperfect in life of timber, and afterwards found too light in truss rods for the very heavy motive power of the road. Nearly \$100,000 has recently been expended in this work, and certainly adds much more to the value of the property.

Over Wilson's creek is a thirty feet span plate-girder deck with standard floor. Near Earl's is a new riveted lattice truss, and at Dresden, over the outlet of Keuka lake, in place of the wooden structure, are seven forty feet, one sixty, and one thirty feet spans of plate girders, supported with iron piers resting on substantial masonry, and a 100 feet span iron truss over the stream. At Ketchum's gully the

old Howe truss is replaced with a 150 feet span riveted lattice. At Himrod's Junction, and crossing the Northern Central railroad, is a 130 feet span iron truss. Big stream and Spring gully trestles are the same as last inspection, no filling having been done. At Gravel Run the Howe truss of 150 feet span, and trestle approaches, are the same as before reported, except the truss is now supported at fourth and fifth panel points, with strong timber piers resting on rock foundation. At Rock Stream, the 150 feet span Howe truss has been replaced with a deck-riveted lattice of same span. The Watkins' Glen viaduct is same as last reported, except the floor timbers are too old and lifeless; they should and probably will be renewed this season. Mill Pond bridge was a trestle when last inspected; there is now a fifty feet span through-riveted lattice, resting on good masonry abutments. This last bridge is followed by another of like kind, substituted for a wooden trestle, and crossing the same stream, in place of a wooden truss, is a new riveted lattice, fifty feet span, on masonry abutments, and remainder of old trestle filled. Near the crossing of the Chenango river another long trestle has been filled and a similar iron structure substituted. All these new bridges have a good, strong floor system. At the crossing of the Chemung river and the southerly end of the road, is an iron pin-connected bridge, as last reported, and in good condition. The foregoing new structures, filling of trestles and renewing minor openings with masonry and iron, have put the bridging of the line in excellent maintenance.

At Geneva the New York Central and Hudson River railroad depot is used, and at Corning that of the Fall Brook Coal Company is used. The way stations have good depot buildings, well furnished and generally neat and clean; some of them, however, were not as tidy as desirable, a matter that can easily and should be promptly remedied.

Corning, Cowanesque and Antrim Railroad.

This road was found to be in as good condition as at last inspection. A large renewal of ties was noticeable. The stub switch and open floors, at many of the water-ways and cattle-guards, are the only objectionable features in this road. A few openings have been filled and box culverts constructed. The grades are almost nominal on this line, but fully sixty per cent of the alignment is curved. All the depots were examined and found in reasonably good order. The repair shops are located at Corning; they are well equipped with necessary machinery for constructing new work and for general repairs. As a whole, the roads leased by the Fall Brook Coal Company are in excellent condition and show careful maintenance.

The company, by its president, Gen. Geo. I. Magee, informed the Board that the report had been given the superintendent, with instructions to comply with its recommendations.

FONDA, JOHNSTOWN AND GLOVERSVILLE RAILROAD.

Considerable improvement has been made in the condition of this property since the inspection of 1883. Steel rails are now laid over one-third of the road, and the iron rail remaining is in reasonably good condition. Seven short spans of iron girders and trusses made of old rails, supported on masonry abutments, and two twelve feet span arch culverts have been constructed within the past year.

All the truss-bridges and short openings were carefully examined. The A truss at Fonda, resting on bents, was found in good, strong life of timber. The next structure is a riveted lattice, 100 feet span, over Cayadutta creek. The bearing of trusses at bridge seats should receive attention, as the coping is broken and crushing, the masonry underneath shaken, and the bearings of trusses are not all at the foot of first braces and end posts, but extend along the lower chord in a manner that will soon weaken the truss; it is not as yet dangerous, but liable to become so. The floor of this bridge also needs some renewals, and the trusses have not been reinforced as advised by the Commission. A careful examination revealed no loose rivets. The structure is located on a heavy grade, and frequently engines coupled together pass over it.

The other bridges are short spans of plate girders and trusses made of old iron rails, as noted in last report. There are a number of pile and trestle bridges, some of which are in good condition, and have good floors, others have too old and partly decayed stringers. The attention of the superintendent was called to

these defects and repairs have been made. Most of the cattle-guards and some of the other small openings have no flooring, the rail being spiked to stringers, a serious defect in the event of a derailment, and inexpensive to obviate. The ties are generally in good life, and the surface and line of superstructure in fair condition, and portions of the track are very workmanlike.

The fencing is not all as well maintained as desired. Where renewals have been made, wire fence has been built. Considerable more new fencing will be necessary the coming season. The roadway was found neatly kept, and the cutting of weeds and underbrush in progress. The stub switch is still in use. All highway signs were in place. There are no overhead obstructions.

The depot buildings and waiting-rooms at Johnstown and Gloversville are more tidy and in better condition than found in 1888. Mayfield, Cranberry Creek and Northville have good, well furnished and neatly kept station buildings. The repair shops of the company are located at Gloversville, and some improvement in them is noticeable; a building for storing cars has been erected, the freight-house moved to a more convenient location, and a new, well arranged general freight office added.

The passenger equipment and motive power were examined as far as possible and found in better condition than when last inspected. The Jauney coupler and Eames' vacuum brake have lately been attached to passenger equipment.

The following letter has been received from Mr. Caten, superintendent of the road:

FONDA, JOHNSTOWN AND GLOVERSVILLE R. R. Co., }
GLOVERSVILLE, N. Y., August 18, 1885. }

T. W. SPENCER, Esq., *Inspector*:

DEAR SIR — Since you were over our line I have added a new stringer (making three on each side) to the bridge at Mayfield, across Mayfield creek or pond, and put a new 6x14 on the crossing between Johnstown and Gloversville. I have also ready to put on the bridge (the iron bridge near Fonda) some new ties and some guard rail stringers to bolt on to the out end of the ties. I have also some guard rail to bolt on to the out end of some ties which I have also ready to put on those small openings east or beyond Kingsboro. These timbers will be put on in very few days.

Yours, etc.,

L. CATEN,
Superintendent.

GENEVA, ITHACA AND SAYRE RAILROAD.

This road was not inspected last season, and the Commissioners' report for 1888, at page 842 of first volume, will give a general outline of the road and its condition at that time.

In the interval to present inspection, the management have not allowed the property to deteriorate from the excellent condition then found, but have made many improvements, such as the renewal of bridges deemed too light for an increased weight of motive power, in the filling of a number of trestles, constructing arch culverts for the passage of streams, and laying steel where formerly iron rail was used, on the Cayuga lake branch. At the crossing of Seneca river a pin-connected iron bridge, provided with a standard floor and inside iron guard-rails, has been recently constructed. At Van Lone creek a Phoenix column pin-connected deck truss, with standard floor, has been erected. At Trumansburgh viaduct is a new open column iron structure, with newly constructed piers and abutments, taking the place of an iron bridge found too light. Taughannock creek viaduct has a new floor with guard-rail inside, as have nearly all the larger bridges. Near Ithaca is a new plate-girder deck, on iron piers, and a number of openings have been renewed with iron girders. All the iron work was found well painted.

At all grade farm crossings strong gates have been substituted for bars. The fences are generally well kept up, and cattle-guards, with whitened cross fences, are maintained, clearly defining the location of road crossings to enginemen. The maintenance of the superstructure in ballast, ties, surface and line is thorough and workmanlike.

There are a few openings of short spans deemed in too good condition for present renewal, that have the rails spiked to stringers; all the rest have a closely

tied floor. A number of point safety switches, interlocked with distant signals, have been placed in the superstructure, and but few stub switches remain.

All overhead obstructions have nineteen feet head room, except the arch through which the road passes under the New York, Lake Erie and Western railroad, near the State line.

This obstruction is provided with warnings, and was at time of previous inspection; they were overlooked and erroneously reported as absent.

The Cayuga lake branch, with the exception of one mile at the northerly end, is now laid with steel, fastened with angle plates, and the track is in nearly as good maintenance as the main line.

The riveted lattice bridge over Cayuga lake outlet has been reinforced as advised by the Commission. Nearly all the timber and pile trestles have been rebuilt with substantial masonry and iron girders, and the road-bed, along the edge of the lake, has been further strengthened with riprap. A few trees, with exposed roots and leaning toward the road, were noticed on the high bluffs bordering the lake — it would be prudent to remove them.

The station buildings are well and, generally, neatly maintained, but the depot at Spencer remains in the same miserable and insufficient condition. At Romulus the depot was recently burned, and a new one has not as yet been erected. Union Springs has a new, well furnished depot.

The road certainly shows very competent supervision, and the management a determination to keep the property up to a high standard of maintenance.

GREENWICH AND JOHNSONVILLE RAILROAD.

The improvements made in the condition of this road since the inspection of 1883 were necessary, and add much to its safety and value. New bridges and trestles have been built, others repaired, masonry constructed; and steel rail laid. The road-bed has received additional ballast, ties thoroughly renewed, and the superstructure is in better line and surface than when last examined.

The long Howe truss over Hoosac river has additional rods at first and second panel points, as advised by the Commission, and a new tin-roof and floor. The approaches at each end are trestle-work, now wanting some repair. Flax mill, pile and girder rod truss, with trestle approaches, is in good condition, except a few pieces of timber are too old. A thirty feet span Queen truss over Wampecack creek has been erected. A number of cattle-passes, water-ways and cattle-guards were found too old for absolute safety, and they will be rebuilt or filled up. A trestle of four twelve feet spans and abutments, at another crossing of same stream, has been built; the flooring is insufficient, plank ties being used, and no guard-rails. The next structure is a new twenty feet span Queen truss over same stream, on bent abutments, followed with a new thirty feet span and good masonry abutments. A number of water-ways, formerly trestles, have now masonry abutments constructed of sawed white marble, obtained from Vermont quarries, and new stringers. At Greenwich, and crossing Battenkill creek, are two spans of deck Howe truss, on masonry abutments. The deck has been newly tinned and trusses reinforced by additional rods, and with bents, as advised by the Commission. A high trestle approach at north end of bridge, used for coal pockets, is entirely rebuilt, or all unsound timber removed. While so much has been done to strengthen and make secure the openings in the road, the work should be continued until all the unsound timber is removed, and a good, closely tied floor provided for all of them.

The road is now laid with steel, except about four and a half miles at the north end, and the rail removed has supplied sufficient good rail to repair that remaining, and it is now in excellent condition.

At Johnsonville, in connection with the Troy and Boston company, a new, convenient depot has been built. South and West Cambridge, Summit and Easton are flag stations, but agents are employed to be in attendance when trains are expected. At Greenwich there is a good, well maintained passenger and freight station combined.

The highway signs are all in place, distinctly lettered, and across the traveled roadway. The one locomotive has been rebuilt and the passenger and baggage car painted and reupholstered. Hand brakes are still used, and stub switches remain in superstructure.

The following letter has been received from the president of the road

NORTH GREENWICH, *September 21, 1885.*

Board of Railroad Commissioners, Albany, N. Y.:

Yours of the 16th inst. at hand, in which I am gratified at the report given of the physical condition of our road. The most of the defects pointed out by your Inspector have been attended to, and others will be attended to as soon as practicable. In regard to air brakes we think our road does not come under the statute referred to, as our trains are all mixed, and we do not run at the speed of twenty miles an hour.

Yours with respect,
W. D. ROBERTSON,
President.

P. S. — My post-office address is North Greenwich, N. Y.

W. D. R.

HARTFORD AND CONNECTICUT WESTERN RAILROAD.

The improvements in progress and contemplated at time of last inspection, made in 1883, see page 873, first volume of Commissioners' report of same year, have been for the greater part fully consummated.

About fifteen miles of steel has been laid, and from the iron rail released, sufficient has been relaid, until now the iron is in very good condition. Fully one-half or more of the ties have been renewed, and as a whole they are in sound condition. The road-bed is well drained, superstructure thoroughly ballasted with a good gravel, the line of track and its surface in excellent order, and the narrow embankments, particularly near Boston Corners, have been widened. All of the truss-bridges have been rebuilt or thoroughly repaired, and new trusses erected with strong granite masonry abutments taking the places of trestle-work, and all have good standard floors and trusses housed. There are eleven of these bridges, from 85 to 112 feet long, and from one to three spans each. The fencing is in medium condition, and will soon require extensive renewals; where this has been recently done a good wire fence has been constructed. The roadway is neatly kept, but the underbrush is not cleared from it.

There is considerable trestle work on the line, some of which is in poor condition and should be rebuilt, or if possible filled. In the trestle over the Central-Hudson road at Fishkill, is a Queen truss of twenty-five feet span, in an unsafe condition, and the iron truss over the Central-Hudson tracks should be painted. Between Fishkill and Red Hook are quite a number of short span openings that were found too old in life of timber and without a good flooring; a few have the rail spiked to stringers. The Jackson trestle, forty feet high and 250 feet long, is in part an old structure, with ties too widely spaced and in poor condition, and the Miller trestle is in nearly same condition. Trains move carefully over these structures. The company have effected a land settlement with the Weed Ore Company, and the bridge at mouth of mine is now a good, strong structure. Point switches have been placed in the superstructure where steel is laid, and all dangerous sidings have throw-off switches.

At Rhinebeck the depot of the Central-Hudson is used. Red Hook has a very good depot, but poorly furnished. Spring Lake, Elleslie, Jackson Corners, Mount Ross, Ancram and Copake have good one waiting-room depots, but generally the platforms were found in a broken condition and the sittings uncomfortable. At Boston Corners the depot of the Harlem road is used, and that road crossed at grade. At State line, or Millerton, a junction is made with the Newburgh, Dutchess and Connecticut railroad, and a good depot and platform is provided.

It will be observed from the foregoing that while much has been done, and a large expenditure made, yet there are further renewals necessary, and will probably be made the present season.

Generally the road is in good, safe condition, and the management are deserving of commendation for the energy displayed, since they became possessors of the property, to insure safety to its patrons.

KAATERSKILL RAILROAD.

A narrow-gauge (three feet) railroad extending from a junction with the Stony Clove and Catskill Mountain railroad, near Hunter's, to Kaaterskill, a distance of eight miles.

The road is newly constructed, having been completed early last season, though operated a short time in the previous fall.

The truss-bridges and pile and timber trestles are very strongly built for the light equipment used. Twenty feet spans have six, eight by sixteen-inch track stringers, and all the openings have corresponding members, probably intended to be used for standard gauge equipment if desirable. The frost was severe the past winter, and slopes of new cuttings were seriously affected. The work of removing the sliding material and widening embankments was in progress at the time of inspection, and was nearly completed; the ditches were opened, and superstructure re-lined and surfaced. The curvature for a narrow-gauge road is very easy, and the maximum grade is 118 feet per mile. The rail is steel of forty pounds weight, laid alternately, and secured at joints with fish-bars. Ties are spaced about 2,700 per mile and roadway fenced with barbed wire.

At Tannersville and Laurel House are very fine depots with covered platforms at each end, furnished with excellent sittings and sufficient to accommodate at one time a large number of people. The equipment consists of two locomotives and two passenger and baggage cars, all in excellent order, having air-brakes and Miller platforms. The road is operated only during the summer and fall months.

LACKAWANNA AND PITTSBURG RAILROAD.

In 1883 an inspection of the narrow-gauge division of this road was made, but the standard gauge between Perkinsville and Lackawanna junction, then under construction, and the leased line from Nunda junction to Swain's, were not examined. This season all of the lines operated by the Lackawanna and Pittsburg company were carefully inspected.

Swain's Branch.

From Swain's to Nunda junction, eleven and three-quarter miles, leased from the Rochester, New York and Pennsylvania Railroad Company. This line of road is considerably curved, and has a maximum grade of ninety feet per mile. The roadway and fences are in medium condition, but ditches, weeds and underbrush neglected. The road-bed is of good width, except a few embankments are narrow on the outside of curves, and should be filled out. The superstructure has very little ballast under it. The ties are generally in good, sound condition, and spaced 2,600 per mile. The rail is iron, fifty-six pounds in weight, laid with opposite joints and connected with fish-bars. A short piece of steel has been recently laid. The whole is in good order; line and surface of track in fair maintenance, and all highway signs and overhead warnings in place. The bridging on this branch was thoroughly repaired or rebuilt about two years ago. An examination of each structure found them all in good condition and sufficient in strength of timber. All of the trusses and pile and trestle-bridges, and most of the cattle-guards, have good, substantial floors; a few only of the cattle-guards have rail spiked to stringers. Stub switches, with one exception, are used. At Nunda is a low Howe truss and a trestle approach at west end, of sixteen bays, all in good life. The next truss is over the main line of the New York, Lake Erie and Western railroad near Swain's. It is a through Howe bridge, new, and has timber bent abutments and bents at second panel points. The bridges and superstructure were increased in strength to carry a heavy engine in operating the grade out of Nunda. Now lighter engines are used.

Perkinsville Junction to Lackawanna Junction.

Between Perkinsville and Swain's and Angelica and Lackawanna junction, the road is quite new and in operation about eighteen months. The road from Swain's to Angelica is of older construction and originally a narrow-gauge. The whole forms the main line, about forty-one miles in length, and is very well constructed. At Stony Brook Glen there is an iron viaduct 236 feet extreme height and 750 feet

long. It is a strong open column structure resting upon iron piers with first class masonry footings and spanned between with Fink truss girders; the whole is strongly floored. A through low truss, Howe, of sixty feet span, is the next structure. At the crossing of the main line of the Erie railroad there is a long trestle and one Howe truss, all located on an eight degree curve, and averages about twenty feet in height; there are sixty-four spans of fifteen feet each at east end of trestle, then a through Howe truss over the Erie road, followed by forty-six spans of trestle at westerly end—in all about 1,800 feet in length. The whole is well constructed and properly floored, and has inside iron and outside timber guard-rails. Between Swain's and Angelica are a number of extensive trestles. One of eighty spans of eight feet each, intermediate bents, and about sixty feet in height, has been introduced. The bents have masonry foundations, and the whole is strongly built and well floored. The next is a fifty feet bay trestle of same build and condition. Besides the foregoing there are, between Perkinsville and Angelica, fifty-six openings for water-ways, under farm crossings and cattle-passes, from one to fourteen spans each; some of the single spans have masonry abutments, but generally the entire structures are of timber. They were found in good condition and, with few exceptions, properly floored. Between Angelica and Lackawanna junction there is considerable truss and trestle bridging. Near Angelica is a deck Howe truss on masonry abutments with trestle approaches, of ten and forty spans of fifteen feet each, and about forty feet high, all new, strongly built and well floored. The next bridge is two spans of through Howe truss over the Genesee river, and supported by good masonry abutments and piers. This is followed by a Howe deck on masonry substructure and twenty-seven spans of trestle approach, followed by another and similar structure alike in all respects. There are a few openings of trestle-work, under farm crossings and water-ways. The fencing is generally new and well kept up. Weeds and underbrush neglected thus far this season. There is but little ballast on the road-bed. The ditching is reasonably thorough, but road-bed on some of the embankments too narrow, particularly on the outside of curves. The ties are mostly oak; in good, strong life and spaced about 2,600 per mile. The rail is fifty-six pounds steel, secured with angle plates and laid alternate suspended joints; point switches are used. The line and surface of track is in quite ordinary condition.

Narrow-Gauge Division,

Between Angelica and Olean, distance about forty miles. This division was found in a much lower state of maintenance than when last inspected, and while the timber structures generally are not yet too old, considerable work is necessary to bring them, and the road generally, to a really good condition. There is no masonry of any moment on the narrow-gauge division. Near Olean, where the road occupies the bank of the old canal, a few of the canal structures are utilized. There are about fifty-four trestle and pile bridges, from one to eighty spans, of fifteen feet each, beside cattle-guards and other like openings, and at Olean there are seven continuous spans, thirty-one feet each, of low Howe truss newly constructed. Most of the trestle-work is in good condition. There are a few structures that have too old timbers in them, and the attention of those in charge was called to all observable defects. The ties are generally in good life, but the iron rail shows considerable wear, and the track is not as well lined and surfaced as when last inspected. The joints and centers are not kept up, and the superstructure generally shows want of labor to properly maintain it. There are a large number of highways without crossing signs. The station buildings on the entire road are generally good structures and in fair order. The depot at Friendship, however, is scarcely tenable and should be renovated. At Angelica the company have a very good depot; also at Perkinsville, Rogersville, Stony Brook Glen, Canaseraga, Birdsall and Bolivar are well furnished, and were found neat and cleanly.

LAKE SHORE AND MICHIGAN SOUTHERN RAILROAD.

This road was omitted in the inspection of 1884. The report of 1883, volume one, page 345, Commissioners' report, will give the result of the examination last made. The recent inspection did not reveal to your Inspector any material difference as compared with the condition of the road noted in 1883. The steel has been renewed to the extent of ten miles of single track, and over nine miles

have been re-ballasted with gravel hauled seventy miles, which was by no means a small or inexpensive work, and the result attained is a very superior piece of superstructure. Both tracks were found in good maintenance throughout, and little, if any, reasonable adverse criticism could be made. The ties are in good life, except in a few short pieces of track, and the work of renewal was progressing, as evinced by the new material distributed. The standard of ties adopted is very liberal in size, the length extended from eight to eight and one-half feet, and all of oak timber. The fencing and roadway were found as well maintained and as neatly kept as when last inspected. The fifty feet span arch culvert at Chautauqua creek, which, unfortunately, had too light parapets for their height, and had broken the arch under their rear lines, has been thoroughly repaired by extending barrel of arch ten feet at each end, and is now beyond the possibility of further failure. The discharge of water has been confined in a very thorough manner, and fears of undermining the structure are allayed. The other broken arch, noted in 1883, remains in about the same condition. The importance of a substantial support for derailed wheels when crossing minor openings, as well as those of magnitude, was clearly shown by the imprint of a derailed flange on one of the smaller openings thus protected. There are nearly one hundred of these openings from five to twelve feet span that have the old-fashioned open floor. The masonry at all the openings, large and small, is, perhaps, with a half-dozen exceptions, of the very best for the stress to be borne, and in the gradual raising of track, the stringers have been lifted from their seat from four to ten inches, and could readily, for the better, be dropped to their proper place and ties inserted between them and the rail without disturbing the plan of superstructure. This defect should certainly receive attention. The general absence of highway-crossing signs still exist, but new ones were noticed by the car-load along the line, and before the writing of this report, are probably in place. The large and minor openings were examined and all found in good condition, and short spans sufficient in material. The strain-sheets of trusses furnished the Commission will show their ability to sustain weight imposed. The same excellent maintenance of stations, noted in 1883, was everywhere apparent. West Hamburg is a recently-located station, and a new, well-finished depot has been erected. Silver Creek depot has a very attractive yard, in commendable order. Brocton Junction, the Chautauqua lake connection, has been embellished with beautiful flower beds, and the depot is every way in keeping. Westfield has been lately renovated and is superior in its accommodations. Ripley has a new station building in like condition. The depot at State line, while cleanly, was not in as good maintenance, undoubtedly an oversight, as all the others were unexceptionable. Referring, as in 1883, to the Block system adopted for the movement of passenger trains, and in part for freight as well, the dividing of the road into sections as often as telegraph stations occur is so simple, inexpensive and effectual, that unless gross negligence or carelessness arises, under its workings, connected with the interlocking of main-line branches, a double-track line should be absolutely free from rear collisions, and is worthy of imitation by other like roads, as it gives the dispatcher a control that he would not otherwise have.

THE LAKE SHORE AND MICHIGAN SOUTHERN RAILWAY COMPANY, }
CLEVELAND, O., October 27, 1885. }

MY DEAR SIR — Your favor of the 22d ult., inclosing report of the Inspector of your Board on the condition of the Lake Shore road, was duly received.

The report has been referred to our chief engineer, who advises me that, in many cases, the grade of track is such that the cross-tie system can be adopted across small openings, without change of masonry.

Wherever it can be, this will be done as soon as practicable, and, as fast as the grade is changed by new ballast, cross ties will be put in at all other places where the Board recommends.

Your favor of the 14th inst., with accompanying report, has also been referred to the chief engineer, who will proceed without delay to rearrange the track stringers on the Cattaraugus bridge, in such a manner as to reduce the strain on the floor beams to the proper limit; and, in like manner, other structures of the kind mentioned, will have attention.

Very truly yours,

JOHN NEWELL,
President.

WM. C. HUDSON, Esq., Secretary.

LEHIGH AND HUDSON RIVER RAILROAD.

About fifteen miles of this road is in the State of New York, and extends from Greycourt south-westerly to the New Jersey State line.

The roadway and superstructure remain in about the same condition as reported last year. Between Greycourt and Sugar Loaf station, four miles, the ties are very poor; they should be thoroughly renewed and line and surface of track improved. South of Sugar Loaf to Warwick they are in better condition, and to State line they are in good, strong life; 18,000 new ties, nearly all north of Warwick, will be used this year. The road-bed in cuttings should be more thoroughly drained to hold superstructure in place after surfacing. The track as a whole is only in ordinary line and surface. North of Warwick the rail is considerably worse, and a renewal of one or two miles would relieve sufficient rail for repairs to make the whole in very good condition, for a further time, at least. Between Greycourt and Warwick the fencings appear in better maintenance than last year; south of Warwick it is comparatively new. All the openings were examined, of which there are about forty, from five to twelve feet span, and a number of riveted lattice and pin-connected iron trusses. The lattice trusses have been reinforced, as advised by the Commission. Much of the iron-work requires painting. The forty feet span McCollum truss, reported as entirely decayed last year, has been replaced by a good plate-girder deck with a standard floor. The other old McCollum truss, fifty-two feet span, still remains, but is not depended upon for support; a much shorter truss would answer every purpose, as there is but little flow of water. The masonry in the minor openings is dry rubble work, and much of it is falling, being too light to withstand the jar of trains; the rebuilding of them will soon be necessary. A few of the timber girders were found too old, and ties on many in like condition; others have been renewed, and a good floor system provided. The material for the same work was delivered to complete the flooring of all openings. The highway crossing signs were all in place, and gates have been erected at the crossing of Main street in Warwick. Weeds and underbrush thus far neglected, but it was stated that the entire roadway from fence to fence was to be thoroughly cleaned up this fall. A few new passenger coaches have been added, and all passenger equipment has now air-brakes. So far as could be examined, the passenger cars and motive power were in excellent order. The depot at Greycourt was found in rather better condition than last year. A large transfer of passengers occurs at this station, and a covered platform would add much to their comfort, especially in inclement weather. The other depots were about as last reported. At Warwick the company have a good brick engine-house lately constructed. Take the property together, the condition is somewhat better than the previous year.

MIDDLEBURGH AND SCHOHARIE RAILROAD.

The report of the condition of this road, made last season, and printed in first volume of report of 1884, page 266, gives a fair representation of its present condition, with one more year's wear of rail and equipment. Its condition is improved by a renewal of one-fifth mile of newly laid steel. All the recommendations made in last year's report are still necessary to bring the property up to a condition of maintenance such as the average of the railroads in the State. There are no truss-bridges and only a few short span openings, with one or two of two or three bays each, and none are of any great height. All were found to be in very good condition, and sufficient in size of members to sustain the weight imposed by the motive power. The Middleburgh and Schoharie and the Schoharie Valley railroads are maintained separately, but in train service are operated as one road. Trains are run at a very low rate of speed.

NEW YORK CITY AND NORTHERN RAILROAD.

The inspection of 1883, reported in first volume issued by the Commissioners for that year, at page 353, was the last made of this road. Since that inspection, between Whitson's and New York, a distance of twenty-five miles, and where occur the heaviest grades and sharpest curves of the road, considerable improvement has been made. On this portion of the line the narrow embankments have been widened, the remaining old iron rail has been replaced with steel, the super-

structure improved and is now in excellent condition, and commendable care is taken to keep all in good order.

North of Whitson's, and to the end of the road at Brewster's, the property has depreciated in maintenance below a proper condition. Some of the cuttings are wet, and slopes moving, making it difficult to keep the ditches open, and the drainage of road-bed generally should receive more attention. The ballast requires additions to better support the sleepers, and they, in turn, as a whole, are too old, and the iron rail is too much worn. While this portion of the line is not unsafe to operate, too little attention has been given its maintenance, and it compares unfavorably with the southern portion of the road.

The mechanical structures were each carefully examined.

The masonry, with few exceptions, was found in good, sound condition. All the truss bridges advised by the Commissioners to be reinforced have been strengthened. A few of the iron trusses and plate girders should be again painted to prevent corrosion. The timber trestles were found in good order, and all openings in road-bed have now a substantial floor system. The Howe through truss and trestle approaches, crossing over the Harlem railroad at Brewster's, requires some attention, as a few of the timbers are old.

The overhead obstructions now have proper warnings for train-men, and all highways, with one exception, which was ordered to be replaced, are provided with caution signs. The passenger cars and motive power were examined as far as possible in passing over the road, and found in very good order.

All of the depots were inspected, and found generally well maintained and neatly kept. Where they were otherwise, more care will be taken to make and keep them in proper condition.

Another year, possibly at the close of present season, the northerly end of the road will show an improved condition. It is but just to report that the inspection was made early in the year, and soon after the frost had left the road-bed.

NEW YORK, CHICAGO AND ST. LOUIS RAILROAD.

The inspection of this newly constructed railroad was omitted in 1884. During the present season, it was carefully examined, and found in many respects much better than in 1883.

The road has been in operation only three years, and the life of timber in trestles and pile bridges, of which there are a large number, some of them quite extensive, has deteriorated but little, except it may be in one or two instances, and these have been reinforced.

The construction of the timber work is good, and sufficiently large in section to meet the demands of stresses imposed. Some of the piling has shown weakness in support, and intermediate bents have been driven. All the openings have a good flooring of ties, held firmly in place by spacing ribbons, and those of length are further protected by inside iron rails extending to a point twenty or more feet on the approaching embankments.

The road is single track, all steel rail, laid alternate joints; cross-ties or sleepers are mostly of oak timber, large in size, and spaced about 2,800 per mile. West of Brocton cedar ties are in the road, some of which are already failing, and renewals to the amount of 12,000 will be made this season. A good material for ballasting does not exist along the route in New York State, and seventeen miles have been ballasted with material obtained 100 miles distant. Where this has been done the line and surface of track presents a very workmanlike appearance. The other portions of the road-bed are thinly ballasted with the best attainable material near by, and while not perfect, are certainly in better condition than found in 1883.

The drainage of road-bed is much more thorough, and narrow embankments have mostly been filled out to a good width.

One passenger, and one mixed train, each way per day, is the extent of passenger service, the road being operated chiefly for transporting freight.

The passenger stations were each inspected; they are well designed, well furnished, and convenient. With an exception of two or three of them, which were very slovenly kept, the depots were found cleanly and orderly.

The roadway is neatly kept, weeds and underbrush cut; and fencing in good order. All highway crossings have caution signs, but many of them are very small, and size of letters does not conform to the requirements of law regulating such matters.

NEW YORK, LAKE ERIE AND WESTERN RAILROAD.

Last season the entire line and branches operated by this company were carefully inspected. This year the Buffalo and South-Western, and Buffalo and Suspension Bridge divisions only were examined.

There are no changes in the general features of the Buffalo and South-Western division, but in matters objected to last season there have been improvements and renewals made, which add much to the better condition of the property.

It is to be regretted that the company have not been able to ballast the road-bed this season, as the little now under the superstructure, if any was ever placed there, has become worn out, and while the superstructure during the summer attains an excellent surface and line, the track cannot be kept in good adjustment during the spring and fall rains. A good bed of gravel is located near the center of the division.

There are a number of too narrow embankments that should be widened, otherwise the road-bed is of ample width and generally well drained, and fences and roadway are in same condition as before reported.

The cross sleepers are in good life, and the rail, which is steel, except three miles at westerly end, is in very good order. The iron rail is much overworn and should be renewed.

The line and surface of superstructure was found in remarkably good condition.

The Howe truss bridge over street in Jamestown, and that over a freshet stream (22) near Kennedy, are in the same condition as found last season. No arrangement has been made with the authorities of Jamestown as to width of opening, and the danger of undermining of bents at Poland bridge still exists. All of the remaining bridges found last year on bents have been rebuilt in the very best manner.

There are a number of pin-connected iron bridges, and a few plate girder trusses. Additions to floor beams and track stringers have been made where necessary, and some of these structures have been painted; others were noticed that were being damaged for the want of a coat of paint.

Between Jamestown and Grenada all the openings except over Chautauqua outlet have pile substructures or consist of trestle work. East of Grenada, with the exception of openings crossing Buffalo flats, have good masonry substructures. The trestles are all in good condition, but the want of a good floor system on many still exist. A few of these openings, and one especially, located near a stub switch, have been properly floored since last inspection.

An improvement in line of road, on the steep grade from Dayton to the valley of Cattaraugus creek, has been made by reducing one or two of the sharp curves. This piece of the road is in the best condition.

No changes have been made in the station buildings at Collins, Eden Centre and Hamburg; with these exceptions, the depots were found in very good condition. Gowanda station grounds were found in the same excellent order as noted last season, and one or two others have neat lawns.

This branch line is certainly in better condition than found last year.

The Buffalo and Suspension Bridge division has received considerable attention this year. The re-ballasting of superstructure has been further advanced and renewal of ties increased, bringing them up to a good condition throughout.

At the crossing of Tonawanda creek and the Erie canal, near Tonawanda, are two spans of Howe truss of 127 and seventy-eight feet each, both resting on bents. A new iron pin-connected bridge is on the ground to take their place, and the long trestle approaches have been filled. Another too old Howe truss near La Salle is to be replaced with a plate-girder truss now at hand. Another structure of like kind at the crossing of Gill creek is to be replaced with a forty-two feet span plate-girder through, now delivered. These renewals will bring the bridges on this division into excellent condition. The line and surface of the superstructure has been greatly improved. Portions of it have been for long distances raised one and two feet, and the ties have been increased to 3,100 per mile. The fencing has been repaired or renewed and the entire width of roadway cleaned of all brush, weeds and track debris.

Improvement has also been made in the grounds surrounding the local stations. At William street a small but very neat one waiting-room depot has been erected. The depot at La Salle has been renovated and painted, and generally this branch,

or more properly main line, has been greatly improved. The station building at Niagara Falls is hardly sufficient for so important a place, and its surroundings have not received the embellishments that have been given to many of much less importance. The building, however, is in good order and cleanly maintained.

At Suspension Bridge, the shanty depot, so objectionable and uncomfortable, remains. A better and more convenient station should be provided. Transfer of passengers and baggage are made on the Canada side of the river, but the American side is a place of considerable importance, and suitable station accommodations should be provided.

NEW YORK, LAKE ERIE AND WESTERN R. R. CO.,

OFFICE OF ENGINEER OF MAINTENANCE OF WAY,

187 WEST STREET, NEW YORK, Nov. 10, 1885. }

T. W. SPENCER, Esq.,

Inspector Board of Railroad Commissioners State of New York, Utica, N. Y.:

DEAR SIR — Bridge 23, Buffalo and South-Western division, has been replaced. The bridge at Jamestown over highway is being taken care of until village authorities can make up their minds about the change of grade and street alignment. I am pressing them hard, and I think in the course of a few days I shall hear from them. As soon as they are able to determine what they want, we shall put up an iron bridge on masonry substructure.

Respectfully yours,

H. D. BLUNDEN,

Engineer M. of Way.

NEW YORK AND NEW ENGLAND RAILROAD.

A careful examination, recently made of this road, shows the same condition, and equally as good maintenance, as reported at page 358 first volume of Commissioners' report for 1883.

The narrow embankments, noted heretofore, have been widened and the entire road-bed is now of ample width. A few of the clay cuttings, near Stormville, are troublesome during spring and fall from sliding slopes; the work of removing the slides of last spring was in progress at time of inspection. The ballasting of road-bed is very thorough, ties are well kept up, and surface and line in superior condition. The Wharton switch is used at all sidings out of main line. They have a high switch stand showing target and signal lamp above top of cars. All sharp curves are well rail-braced, while the most abrupt have inside guard-rails.

The truss-bridges and trestles, which are all of wood, were examined in detail and found in good, strong life of timber. At Fishkill Landing, in a bay of the Hudson river, there is about three-quarters of a mile of double track pile bridging. Some of the piles are insufficiently driven, and a number were replaced last season. Ninety more will be driven this year, which will make the whole in good, firm condition. The ice has some effect on these pile bents, and fenders have been erected for protection. For both tracks, when bridge is low, four piles to each bent are used, which is increased to eight piles as the grade rises from the river. The bents are spaced fourteen feet between centers; caps are twelve by fourteen-inch section, and the track stringers are double, eight by sixteen inches, all of pine timber, breaking joints alternately over caps. The ties extend across both tracks. They are seven by eight inches section, spaced eight inches, and guards or ribbons, six by seven inches section, and are well bolted to ends of ties and along the center of floor. The ties and ribbons are of oak timber. The whole forms a very strong structure, and the flooring is the standard for the entire road. Near Hopewell junction is a covered Howe through bridge over Fishkill creek, supported with good T abutments. This bridge is strongly anchored to the masonry, as the head room for water is limited.

Near Towner's the Harlem division of the Central-Hudson road is crossed with a like structure having a trestle bridge approach supported on piles, all in good condition. At Foster's Mills is an eighty feet span deck Howe truss covered, and at the crossing of Croton river, east of Brewster's, is a like structure of two spans. The timber in both bridges is perfectly sound. There are a number of short span openings from six to twelve feet in length, supported with good masonry abutments.

The stringers of spans within the above range are double, twelve by fourteen inches section, and have standard floors. Some of the smaller openings have rolled iron beams for stringers. At Fishkill Landing the company have a good passenger station, with one large, well furnished waiting-room, very neatly kept. There is also a five-stall engine-house, a ferry slip, and a transfer boat of twenty-two freight cars capacity and connecting with the railroads at Newburgh, on the opposite side of the Hudson river. Between Wicopee junction and Hopewell junction, a distance of eleven miles, the track of the Newburgh, Dutchess and Connecticut railroad is used, and at Hopewell junction is a joint depot. Stormville, Poughquag, Paulding, Patterson and Towner's have good modern one waiting-room depots, very tidy and well furnished. At Brewster's, a junction with the New York City and Northern railroad, a good station is jointly provided. The whole property is in first class condition, and reflects credit on those in charge.

NEW YORK, ONTARIO AND WESTERN RAILWAY.

The last inspection of this road was made in 1883, and on page 359 of the first volume of the Railroad Commissioners' report for that year may be found an abstract of that inspection. A severe snow storm prevented an examination west of Randallville, and early in the spring of 1884, an examination of the remainder of the line to Oswego was made.

This season the entire main line was inspected, including also the Ellenville branch. The Delhi and New Berlin branches were omitted, the Inspector being called to other duties, and short time remaining in which to complete the annual reports prevented their examination this season. Inquiry was made of the general and assistant superintendents, and of superintendent of bridges, and assurances were given that both of the omitted branches were in equally as good order as in 1883. The exceeding care given to all the structures of the line gives credence to the statement made by the officers of the road in charge.

The New York, Ontario and Western Railway Company operate from Weehawken to Cornwall, jointly with the New York, West Shore and Buffalo Railway Company.

Commencing at the State line of New Jersey, the road to Cornwall was in all respects found in good order. The stations are well and neatly maintained, the fencing is in good condition, and the structures are of the best standard now used in railroad construction.

The New York, Ontario and Western railway proper commences at Cornwall, and is a single track line to Oswego, a distance of 274 miles, 206 of which are laid with fifty and fifty-seven pounds per yard steel rail, and the greater part secured with angle plates, laid alternate joints, and eleven additional miles of new rail are now being delivered, which will soon be laid in the superstructure.

From Cornwall to Middletown the road is of recent construction, and upon the same standard as the West Shore road. North of Middletown the road and branches have been in operation about sixteen years.

The road between Cornwall and Middletown was found in excellent condition, and the only objectionable feature was that some of the embankments are quite narrow; they should be widened. The station buildings are new, of beautiful design, and neatly maintained.

West of Middletown an examination was made of the trestle and truss bridging in detail. There are twenty-two heavy pin-connected truss iron bridges west of Middletown, constructed after the standard of the West Shore road, and a large number of Howe trusses, which have been reinforced to carry the same loads as those of iron, but thus far the weight of motive power has not been increased to that proposed when reinforcements were made, seventy tons, including tender, fuel and water, being the extreme.

There is a large number of wooden trestles between Middletown and Oswego, aggregating six and one-half miles in length, some of them seventy feet in height. These were each examined, and found, with two or three exceptions, in excellent condition, and none could be considered as unsafe. Little Falls trestle, near Mountain Dale station, is one of these, and will be rebuilt next season. Community trestle, near station of that name, was in part another, and is now being filled, while the south end, which is to be retained, has been rebuilt, as have several other like structures this season. North of Norwich there are a few trestles that require new cross ties, otherwise no exception can be taken to their

maintenance. Watchmen are stationed, and water barrels provided, for all trees of importance, and the whole are evidently well cared for. The wooden trusses, which are nearly all of the Howe pattern, with a few A trusses for short spans, are of the best construction, and in strong life of timber. All trusses, trestles and stringer openings have a good standard floor, and on curves, inside guard rails of iron are added.

The road-bed, with few exceptions, is of ample width, and particular attention is given to its proper drainage. A few narrow embankments noticed should be widened.

Hawks Mountain tunnel, near Fisher's eddy, has been greatly improved by substituting arching and portal at westerly end of an excellent quality of masonry, for the timber formerly used to uphold the entrance.

Stub switches are universal along the whole line north or west of Middletown, with perhaps very few exceptions.

All sidings exposed by their location to the danger of cars fouling the main track have safety switches to prevent such an occurrence.

The fencing of entire line and branches has recently been renewed with a good five-strand barbed wire and post construction, and the roadway throughout is securely inclosed. Slat cattle guards are used south of Norwich; between Oswego and Norwich the pit guard is still maintained, and the cross fences at highways are well kept up.

Considerable light ballasting and raising of track has been done since the last examination of the road.

The ties are of oak and chestnut, and north of Norwich, of cedar timber, and the number used have been gradually increased, until now they are spaced about 8,100 per mile. One hundred and twenty thousand ties were used last year in renewals, and this season 100,000 new ties have been placed in the superstructure. As a whole they are in good condition, but from Norwich to Oswego they have not been as thoroughly reinforced as east of Norwich; and a more complete removal of the too old ties west of Norwich would bring the whole up to an equal and strong condition.

Most of the iron rail east of Oxford, yet remaining in the superstructure, is in good condition. North of Cleveland the rail is too low in maintenance. Patching of rails is quite frequent, over which a large coal traffic is moved. Probably another year will see all the old original iron rail removed and replaced with steel.

The surface and line of superstructure is well maintained, and is commendable to those in charge.

All the highway crossings and overhead obstructions have warnings for trainmen, and caution signs.

Each of the passenger stations was examined. Norwich, Oneida and Oswego have large brick two-story station buildings, and large, well-furnished waiting-rooms. The smaller depots are of wood, well designed, roofed with slate, and have low platforms fronting the passenger rooms. They are mostly constructed for freight storage as well as waiting-rooms for passengers. With few exceptions they were found neatly kept and well maintained. A few broken platforms were noticed; these should be repaired.

Little attention was given this year to the cutting of brush and noxious weeds within the roadway, owing to the limited track force employed.

The shops of the company are located at Middletown and Oswego; they are large brick structures, well supplied with modern machinery, transfer tables, etc., for the repair or new construction of equipment, and were in good order.

The passenger equipment is modern, well and cleanly maintained, and has all the latest improvements, such as air brakes and Miller couplers, and the cars are each provided with wrecking tools, as prescribed by law.

The motive power was examined as far as possible, and such as could be seen was found in good order.

NEW YORK AND SEA BEACH RAILROAD.

The last inspection of this road was made in 1883 and reported in first volume of Commissioners' report for that year, at page 360, to which, in connection with present inspection, reference is made.

There have been improvements and new work constructed since the last inspection, and the defects at that time noted have to some extent been remedied.

About three-quarters of a mile of second track, crossing the salt marsh, and a second jack-knife wooden draw with trestle approaches over Coney Island creek have been constructed, completing the double track over the whole road. The long trestle in the first track crossing same marsh has been filled, leaving only a space for water-way about 150 feet long. At the overhead crossing of the Manhattan Beach railroad, the sharp curves have been reduced and the I beams anchored to the masonry, but the defective flooring has not been made secure, as advised.

The trestle approaches at the draw in the first track crossing Coney Island creek had not been thoroughly repaired and a serious defect was noticed, but promptly repaired when the officers of the road were advised of its danger.

With the exception of the new portion of second track and a part of the first track opposite, laid with steel, the remainder of the rail is iron, erroneously reported as one-half steel. The rail at points is considerably worn, and the ties as a whole are in about the same degree of maintenance, but renewals were being made that, when done, will bring them up to a fair strength. The surface and line of track was found in very good, workmanlike condition.

Of fencing there is very little; the lands adjoining are mostly used for market gardening, and the occupants cultivate as closely to the tracks as possible. At all highways flagmen are stationed to warn the public of approaching trains which, in summer, will average, each way, one train in every thirty minutes, during the greater part of the day and evening.

The terminals at Bay Ridge and Coney Island were found in good order, and the one other depot building at Maplewood in like condition. The close and open passenger cars and locomotives have been repaired, placing the equipment in very good order for the season's work.

Since this inspection was made, the following letter has been received :

BAY RIDGE, *October 19, 1885.*

* * * * * Since this inspection was made, there has been completed and put in use one mile of second track, two new draw-bridges, and two other bridges over Coney Island creek, and all the ties and the old track across the meadows have been renewed. The new flooring and the overhead crossing at Manhattan Beach bridge was completed June 28th.

The second or new track across the meadows was laid with steel rails and about twenty tons of steel rails laid in old track, using such portion of the iron track taken up, that was suitable to repair that portion of the track laid with iron. During this summer 1,700 new ties have been put in the track between Bay Ridge and Eighty-sixth street, and many worn rails taken out and replaced by others.

As to the fencing, we have never felt called upon to fence the line from the fact that the laws of the towns of New Utrecht and Gravesend prohibit the residents from allowing any live stock to run at large.

Respectfully yours,

C. W. DOUGLAS,

General Superintendent.

NEW YORK, SUSQUEHANNA AND WESTERN, LESSEE MIDDLETOWN, UNIONVILLE AND WATER GAP RAILROAD.

This road was found in much the same condition as reported last season. The iron rail has not been renewed. The past winter has been quite severe, and the condition of rail shows its effects very distinctly, as there is an increased amount of patching with short pieces, and the proper fastening of such is, in too many instances, neglected, fish-bars being bolted to only one rail. The surface and line of track is in medium condition and the ballasting, so necessary for a good track, has not been done. On other portions of the New York, Susquehanna and Western road new rail is being laid and the old rail removed. This will probably be used to repair in this State. The ties are little, if any, improved in general strength. Fencing is still much run down. All of the truss-bridges, trestles and short openings were examined in detail, but none were found in serious danger of failure. There are many that should be renewed, however, being in poor condition. Some of the masonry noticed as falling last season has been rebuilt, and the low Howe truss over Rutger creek has been repaired to some extent. At the upper

truss over Rutger creek, one inside chord is too old for safety and the truss rods appear too light; if so much as to be dangerous, the strain sheet furnished the Commission will determine. There are yet a number of ten feet span openings destitute of flooring. The trestle approaches at the overhead crossing of the Erie railway near Middletown are partly filled. In all other respects the property is in about the same condition as reported last year. The road is operated at a very low rate of speed which goes far to mitigate its low condition of maintenance, and it is only just to say that the inspection was made very early in the season, and considerable work, so evidently necessary, has probably since been done.

NEW YORK, SUSQUEHANNA AND WESTERN R. R. Co. }
No. 93 LIBERTY STREET, NEW YORK, October 7, 1885. }

WILLIAM C. HUDSON, Esq.,

Secretary Board of Railroad Commissioners, Albany, N. Y.:

DEAR SIR — We beg to acknowledge receipt of your favor of the 30th ult, inclosing report of inspection of the Middletown, Unionville and Water Gap railroad, of which this company is lessee, and in reply beg to say that the defects, as mentioned in Inspector's report have, in the majority of cases, been since remedied, and the balance are receiving our attention.

With respect, yours, etc.,

F. A. POTTS,
Pres't N. Y., S. & W. R. R. Co.

NEW YORK, WOODHAVEN AND ROCKAWAY RAILROAD.

The inspection of this road, made in 1884, and reported in the Commissioners' report, first volume last year at page 298, will give a fair representation of the condition of the property at time of present inspection, as no changes of moment have taken place. This season the company operate their road independently of the Long Island system, but use the terminal facilities of that railroad at Long Island City and Flatbush Avenue; at least such was the arrangement at the time of inspection. A very careful examination by walking over and closely examining each span of the long pile bridge crossing Jamaica Bay, was made. The bridge is nearly five miles in length, and a description of its construction, draws, etc., is given in Commissioners' report for 1884. No defective timbers were found, and the whole appeared to be very thoroughly maintained, but no examination could be made of the condition of piling below surface of water. Heretofore the teredo, or shipworm, has been more or less destructive, particularly where the piles are not in the tidal current. New piles are driven when found too much worm eaten, and those in charge manifestly feel their great responsibility, and exercise constant care that no hazard is incurred. An immense number of passengers are carried over this road during the summer months. From Glendale junction to Jamaica bay there is very little fencing. The road is double tracked the whole length and laid with steel rail for one-half the way; the balance is iron, both fifty-six pounds per yard in weight, secured at ends with angle plates and laid alternate suspended joints. The iron rail is in medium condition, stub switches still in use. The ties, as a whole, except at the openings, are in poor life, and larger renewals are advised, as the equipment is exceedingly heavy, and strong ties are necessary to hold the rails firmly in place. The line and surface of superstructure was in fair order.

At the overhead crossing of the Long Island railroad near Woodhaven junction is a trestle, about twenty-five feet high, on which passengers are received and discharged, planked and properly handrailed on the west side, but the east track has no handrail, and a passenger inadvertently stepping off on that side is liable to fall to the ground.

A plank sidewalk and handrail should be provided as a proper precaution against such accidents. Along the Rockaway beach are frequent platforms for the hotels and restaurants bordering the line. These platforms have been thoroughly repaired this spring. The road as a whole is in good physical condition for this season's travel, the renewal of all unsound ties excepted. This work was in progress, to some extent, at time of inspection. The passenger cars were being renovated, such as needed it, but generally the equipment, which is very ample, was found in excellent condition.

NORTHERN ADIRONDACK RAILROAD.

This is a recently constructed line of road from Moira, where junction is made with the Ogdensburgh and Lake Champlain railroad southerly twelve miles to St. Regis Falls. It has been in operation about one year.

The line traverses a rising and slightly rolling side hill plateau, overcoming an elevation of 900 feet in eleven miles, with a maximum grade of 100 feet per mile. Fully fifty per cent of the alignment is curved, much of which is abrupt. The average width of roadway is sixty-six feet, fenced with posts and boards, and all highway crossings are provided with danger signs. Many of the embankments are narrow, and slopes of some of the cuttings have slid into side ditches. These will require reopening for proper drainage. Only a limited amount of ballast has thus far been placed on road-bed. Line and surface of track are in medium condition. The ties are large in size, spaced 2,700 per mile; rail steel, fifty-six pounds per yard, fastened with angle plates and laid with alternate suspended joints; all sharp curves are strongly rail braced. There are a number of trestle bridges in the road-bed, a few of which have been partly, and all will be entirely filled, this season. The first trestle, near Moira, has fifteen spans of eleven feet each, with rail about seventeen feet above surface of ground; the bents resting on mud sills are twelve by twelve inches section except caps, which are eight by twelve inches. The stringers are in threes, six by sixteen inches section, breaking joints, with a five feet corbel between them and the caps, all well braced diagonally, and forming a very strong timber structure. The next opening is of two sixteen feet spans with masonry abutments and pier. It has stringers of four members, each six by sixteen inches section. This structure is followed by two openings of trestle-work, one of fifteen and the other of seventeen spans, each partly filled. Deer River is crossed with a sixty feet span low deck Howe truss and a twenty-two bay trestle approached at south end, all in good condition, except it was noticed that the wrought-iron washers or plates at a few panel points were bending badly, and heavier ones advised to be at once supplied. The next opening of moment is a thirty bay trestle averaging twenty feet in height, built on the same general plan, followed by another like structure of thirty-two spans. There are a number of cattle-guards and short openings strongly built, but on the whole of the bridging the ties are spaced two feet between centers, as on road-bed, and no guard rails are provided. Closer tying and well secured spacing ribbons are necessary. All sidings, where cars of themselves or by action of wind could run on to main track, are protected with a piece of large timber securely fastened across such sidings. At Moira the depot of the Ogdensburgh and Lake Champlain railroad is used, and at St. Regis Falls a freight and passenger depot and storehouse of the Hotchkiss Lumber Company are used. From this point south and along the St. Regis river the Hotchkiss Lumber Company are extending the road on their own territory for a distance of sixteen miles, eight of which is now completed, and the balance well advanced.

This extension is a private enterprise and no regular railroad organization is proposed. The Northern Adirondack Company lease one good first class passenger car, and two new standard passenger locomotives. A wooden two stall engine-house and small repair shop are located at St. Regis Falls. For the purposes intended in the construction of the road, which is mostly for the transportation of lumber, it appears to be all sufficient.

NORTHERN CENTRAL RAILROAD COMPANY OF PENNSYLVANIA, LESSEES.

This Company leases the Elmira and Williamsport road, from Pennsylvania State line to junction with New York, Lake Erie and Western road, about one mile east of Elmira; the Chemung from Chemung junction with the New York, Lake Erie and Western road, about six miles west of Elmira to Watkins; the Elmira, Jefferson and Canandaigua from Watkins to Canandaigua; and the Sodus Bay and Southern from Stanley's to Sodus Point, a total length of 105 miles, constitute all the roads operated by the Northern Central Company within this State. On page 362 of first volume of Commissioners' report for 1883 may be found the last inspection of these roads previous to the present report, with the exception of the Sodus Bay and Southern railroad, lately acquired, which latter is reported under name of old organization in same volume at page 378. As careful examination of the road

was made this season, as the limited time that could be given would allow. Considerable improvement was observed, as compared with the condition at last inspection. South of Elmira, a through Howe truss-bridge over South creek has been rebuilt, and a new 120 feet span of like kind over Seely creek was being erected. A number of short openings noted at last inspection as having open floors, are now provided with a strong floor system; others have been filled, and iron pipes substituted where drainage was necessary. Six or seven brick arch culverts have been built, replacing box culverts of too small capacity, and all trestle bridges that were old, have been renewed. A few culverts and short openings north of Elmira have not as yet the standard floor, but they are to be thus provided or filled up. Many of the open cattle-guards have been abandoned, and a slat grating substituted. The board fencing has at places been renewed with wire, but at nearly all points where the obligation of renewals rests on adjoining land-owners, the fencing is in poor condition. A great improvement was noticed in the depots reported in 1883 as in poor order; such have mostly been renovated and properly furnished. They have nearly all been repainted with the standard slate color adopted by the company. The roadway and superstructure are in as good, or even better condition, than when last examined. The property generally shows the competent supervision and thorough maintenance exhibited on the roads of the Pennsylvania system, of which this is a part.

The Sodus Bay and Southern railroad, lately acquired by the Northern Central Company, is in process of entire reconstruction, excepting only the road-bed, and some of the bridging and depots. These will be reinforced and renovated. Between Stanley's junction and Newark, the trestles have all been strengthened and a standard flooring provided. Cattle-passes and water-ways have been rebuilt; sixty-pounds steel rail for one-third the distance has been laid, and eleven and one-half miles of new rail distributed for a further renewal. The road-bed has been rebalasted to a depth of twelve or more inches, and the roadway cleaned up, but the fencing has as yet received little attention, and is much run down. The iron viaduct over Canandaigua outlet is reinforced by a double timber pier at each point of support, with heavy timber corbels on top of same, aiding in support of track stringers, and the old cribbing in the outlet has been renewed with oak timber. The pin connected iron bridge over the Erie canal at Newark has an additional floor beam at each panel point and the hangers have been enlarged; also additional material at pier, and at bridge seats, and to more firmly secure the castings, at foot of end braces. The bridge and trestle approaches crossing the Central-Hudson road are in about the same condition as heretofore reported except some filling has been done, and more is contemplated this year. At the first crossing of Mud creek, masonry abutments and a through Howe truss of 180 feet span have been erected. This bridge was formerly a pile structure. The second crossing of same stream is to have two similar spans of 120 feet each with masonry substructure, instead of the present pile bridge. At the third crossing of same stream is a pile bridge reinforced with new timber. A truss bridge at this point is preferable by reason of floating ice. North of Newark, the work of renewing and strengthening of bridges and superstructure has not advanced as much as south of that point. All short openings have rail on stringers. The old iron rail is considerably worn; broken rails are frequent. Within another year the same thorough renewals will probably have been made as on the south end of line. At Newark the depot has been moved northerly to the under crossing of the New York, West Shore and Buffalo railroad, stairs being used to overcome the difference in elevation of tracks, and a sidewalk from Main street has been built out from the bridging and strongly hand railed. The great improvement in maintenance of this road cannot but be gratifying to its patrons.

OGDENSBURGH AND LAKE CHAMPLAIN RAILROAD.

The inspection of this road was omitted in 1884. This season a careful examination in detail was made of nearly every opening in road-bed, of the depots, and generally of the entire property. The inspection made in 1883, and printed in first volume of Commissioners' report of that year, at page 368, will give a general outline of the road. Since then seven miles of steel, replacing a like amount of old iron, has been laid, leaving but seven miles of iron rail on the entire road, which is in very good order, it having been thoroughly repaired with the iron removed that was suitable. The new steel is fastened with angle plates and laid

with joints opposite; the ties appear to be in much better condition; and this season 47,000 of large size will be used in renewals, most of which are now distributed. The surface and line of track is exceedingly good; the drainage of road-bed thoroughly maintained, and roadway clear of old material, weeds, and underbrush for the full width of one hundred feet. The fencing is well kept up, large renewals having recently been made with barbed wire.

The following is an outline of the present condition of all trusses, stringer openings, masonry and depot buildings, as they occur, commencing at Ogdensburg. At that place there is a fine brick passenger station (well appointed and convenient) and a large brick building used for the general offices of the company; the whole with yard surrounding are kept in admirable order. There is a brick engine-house having six stalls with a small repair shop attached, all in good condition; also a large grain elevator, ferry slip and transfer boat connecting with the Canada side of the river and the railroads there. The first opening in road-bed consists of two sixteen feet spans with straining beam and spur braced stringers, in good condition. It has excellent masonry abutments and piers. Lisbon, the first way station, has a large two waiting-room depot well furnished and cleanly. The next bridge is a Queen truss, twenty-six feet span, a very strong structure, resting on good masonry abutments. Madrid depot has two large waiting-rooms, with freight department attached. The waiting-rooms are very tidy and well furnished. At Grass river are six spans of straining beam trusses, from sixty-seven to seventy-two feet over all in length, built about twenty years ago, and kept well housed. The timbers are of large size and apparently as sound as when first erected. The abutments and piers are of first quality of masonry. At Trout river there is a sixty-five feet clean span Burr truss deck, with timber arch on both sides of each truss, all in excellent condition and well covered, followed by a straining beam girder of sixteen feet span, resting on strong masonry abutments, built for a double track, as are many of the bridge substructures. At Raquetts river is a Burr deck truss, covered, of two 170 feet spans, thirty-five years old, in as strong life of timber as when first erected. The timbers have very large sections, and the bridge, as are all of them, has a good floor but destitute of guard timbers.

At Norwood, a junction is made with the Rome, Watertown and Ogdensburg railroad, and a good union depot is maintained. The next opening is sixteen feet, spanned with a straining beam and spur braced girder in good condition. Knapp's station has a small, dingy waiting-room depot, but cleanly, and Brasher is similar, except it was found untidy. The next bridge is a new deck Howe truss of two spans, ninety-one feet each in clear, over the St. Regis river, with very strong masonry substructure, followed by two Burr deck trusses of about fifty feet spans crossing Trout creek and Allen brook; rebuilt in 1879. Many of the cattle-guards have rail spiked to stringers. A substantial floor should be provided. Laurence is a high platformed depot with two good waiting-rooms, cleanly and comfortably furnished. The next bridge is a Burr deck truss thirty-five years old, crossing Deer river. There are two spans of about forty-two feet each, resting at center on bents, with additional stringers spanning the openings. A new structure will soon be necessary. At Laurence brook is a forty-six feet span Burr deck, thirty-five years old, well covered and in a good, strong condition. At Moira a junction is made with the Northern Adirondack railroad. This is an excellent two waiting room depot, very neatly kept, and is used by both companies.

The next bridge is a Burr deck, forty-two feet span, built in 1850, and having been kept thoroughly protected, is now in excellent condition, with not the least sign of decay. Brushton has a one waiting-room depot, well furnished, but found untidy. At crossing of little Salmon river is a Burr deck truss of sixty-four feet span, with an arch formed of one inch boards on each side of both trusses, built in 1874. Bangor depot has one waiting-room in good, clean condition, fairly furnished.

At Malone, and crossing Salmon river, is a Burr deck truss 144 feet span, top of rail eighty feet above bed of stream. This bridge now rests at sixth panel points, upon two heavy timber piers with a high footing of masonry. The timber has been carefully protected and is now in good life; the bridge is thirty-five years old. At Malone the passenger depot has a train shed attached. The building is of brick, well furnished and surroundings very neat. The freight-house, engine-house and repair shops are of stone, and excellent in design. Burke has a good two waiting-room station in good order. Crossing over a highway is a Queen truss, thirty feet span, in good condition. An arched culvert under a 112 feet

embankment, near Chateaugay, was examined and found as perfect in all respects as when first constructed. Chateaugay has an excellent brick depot with two large well furnished waiting-rooms. Cherubusco has one good waiting-room.

Clinton Mills and Ellenburgh have good depots with two well furnished waiting-rooms. English river is crossed with a straining beam and spur braced truss, of three spans, of about forty-eight feet in length. The members of truss are very large and in strong life, but the masonry is broken and bulging, and should be rebuilt. This was the first and only piece of masonry on the entire road that was observed to be in the least defective. The next bridge is a Queen truss, forty feet span, built in 1880. Altona has a good two waiting-room depot, but somewhat untidy; then follows three Queen trusses, one of two forty feet spans, one of fifty-eight feet, and one of thirty feet, all in good condition. At Wood's Falls is a private depot. At first crossing of Great Chazy river is a thirty-five years old Burr deck truss of 137 feet span. This bridge has been well protected, and timber appears to be in good condition; at center of truss is a strong double bent resting on a crib in bed of stream. Mooers Forks has a small depot very little used. Mooers junction with the Vermont and Canada railroad has a small, untidy, two waiting-room depot. The next bridge crossing Chazy river is a double straining beam and spur braced truss, of two seventy-five feet spans—about twenty-five years old—and now in good condition, followed by a Queen truss of forty feet span, in good order, and again a bridge over the Chazy river of four spans about thirty-five feet each, five years old. At Champlain is a new Queen Ann depot with two nicely furnished waiting-rooms, and at Rouse's Point is a brick station building in excellent condition. The last bridge is of piles reaching out to the draw in channel of Lake Champlain and the State line of Vermont. The piling and superstructure are now in fair life of timber; extensive repairs, or entire renewal, will however soon be necessary. Generally the Ogdensburgh and Lake Champlain railroad has been improved since the previous inspection, and the equipment that could be examined was found to be in quite as good condition as reported in 1883.

OGDENSBURGH AND LAKE CHAMPLAIN RAILROAD CO., }
PRESIDENT'S OFFICE, ST. ALBANS, VT., Oct. 5, 1885. }

WM. C. HUDSON, Esq.,
Secretary, etc., Albany, N. Y.:

DEAR SIR—* * * Regarding guard rails for our bridges, would say that we are putting them on all new work, and entirely agree with you that it is a judicious thing to do. With regard to cattle guards, would say that we consider the practice of placing the rails on heavy stringers properly bound together preferable to using cross-ties or plank, as the latter method frequently misleads cattle, resulting in their injury, besides endangering the trains.

Yours truly,

J. W. HOBART,
President.

POUGHKEEPSIE, HARTFORD AND BOSTON RAILROAD.

Early in the present season, and before time had elapsed in which to repair the superstructure, after the severe frosts of the past winter, an examination of this road was made, in order to expedite the season's work of inspection.

The examination revealed no radical changes since that made in 1883, except the leasing of the road between Boston Corners and the Connecticut State line, to the Hartford and Connecticut Western Railroad Company.

In matters pertaining to the physical condition of the property, improvements were noticed that evinced a determination of the management to maintain the road in as strong condition as the speed operated required, and the limited earnings of the road would allow.

As now operated, the road is thirty-nine and three-fourth miles in length, including five miles of trackage over the Newburgh, Dutchess and Connecticut railroad.

In the years 1870, 1871 and 1872, portions of the road were opened, and the original iron rail is in use, except about sixty tons purchased at various times for repairs. The present condition of the rail is poor, and a renewal of two miles

with new rail, and using the best of that relieved, would place the whole in much better condition, at least for a time, and as good as the present speed of trains demands.

The sleepers are in very fair life of timber, much better than when last inspected, and the surface and line of track shows a like improvement.

There are but two short spans of truss bridging on the road; they are located near Poughkeepsie, one resting on a bent, and the other in good condition; both have open floors. Near Salt Point station and crossing Wappinger creek is a long trestle in good condition, only ties are too widely spaced, and without spacing ribbons or guard-rails. Near Ancram are two long trestles about sixty feet high at greatest elevation. They are both in good life of timber, ample in size and strongly constructed, with good masonry foundations for bent, but the same objection to their flooring exists. Trains are run slowly over these structures.

A few cattle-guards, passes, and water-ways have open floors; many have been filled, or a strong floor provided, since the previous examination of the road.

The station buildings and equipment are in keeping with other departments of the property, and are in reasonable maintenance and thoroughly clean. The motive power is better maintained, and in excellent order.

All highway signs are in place, and there are no overhead obstructions except on the freight track connecting with the Central-Hudson railroad, which was only in part inspected, and is in about the same condition as noted in 1883.

ROCHESTER AND LAKE ONTARIO RAILROAD.

A standard gauge suburban road, operated during the summer months, and extends from Bay street, Rochester, to Lake Beach on the Irondequoit Bay, a distance of six miles.

Considerable of the line occupies a portion of the sidewalk on one side of North avenue, and of a highway leading to the bay. At the northerly end of road, right of way twenty feet wide has been purchased and fenced, but was found untidily kept.

Generally the line is direct, but where curvature exists, it is abrupt, often of not more than 300 feet radius, and the maximum grade is 100 feet per mile.

The rail is fish-plate iron, forty pounds per yard, somewhat worn, and about three-quarters of a mile of steel, of same weight, has been laid this season.

The sleepers are of both hard and soft woods, spaced about two feet between centers, and in very good condition. Of ballast, there is sufficient to maintain a surface of track during the summer months, and in line and surface, the superstructure was in reasonable order.

The passenger cars are of the open excursion pattern, and have side curtains and air-brakes, and link connections; they were in very good order.

The engines are the double end Forney pattern, and no turn tables are used. A new locomotive has been lately added to the power, and the older engines were found in good condition.

At Bay street and Lake Beach good large depots are provided, and platforms are fenced to provide for prompt handling of masses of passengers. These depots are comfortably furnished and neatly kept.

The local stations are simply narrow platforms at points most convenient for the public.

There are no trusses or bridging of any description on the road. The highway crossings have caution signs, and no box cars are used. Trains are run half hourly, at low rate of speed, and the road appears to be carefully maintained and operated.

ROME, WATERTOWN AND OGDENSBURGH RAILROAD.

In the first volume of the Commissioners' report for 1883, at page 377, will be found the last published inspection of this road. July 5, 1884, and May 22, 1885, a special inspection and report of the condition of the Syracuse Northern Division was made.

Subsequently the entire line was carefully inspected, commencing at Suspension Bridge, the westerly terminus of what is designated as the main line, the easterly terminus of which is Norwood, where junction is made with the Ogdensburgh and Lake Champlain railroad.

The total length of main line is 285 miles, all single track.

Suspension Bridge to Charlotte,

Formerly the western terminus was at Lewiston. Recently a road has been constructed from Suspension Bridge to Lewiston junction, a distance of nine miles, and the old road from the junction to Lewiston is only maintained for use of freight trains, which are run at a very low rate of speed.

The new road from the bridge to the junction is laid with steel rail, and track partly ballasted with broken stone. The ties are of cedar and in good condition. Considerable ballasting is yet necessary, and for the greater distance the surface and line of track is in ordinary maintenance. From the junction to Charlotte, a distance of seventy-three miles, the road follows the level country bordering Lake Ontario, and has very easy grades and long tangents. The road-bed and drainage is generally good, but for most of the distance there is little ballast, and the line and surface of track is in medium condition. The rail is fifty-six pounds iron, and portions of it considerably worn. The ties are generally in good life.

There are eleven through Howe truss bridges on this part of the road, from thirty to 100 feet length of span. They are all in good physical condition. There are two iron viaducts, with piers resting upon substantial masonry, and spans of Fink trussing between bents of thirty feet in length.

The viaduct crossing Eighteen-mile creek is 390 feet in length and sixty feet high; the other crossing at Oak Orchard creek is 780 feet long and seventy-five feet high. Nearly all these bridges have good floors; a few, however, should be repaired. The minor openings have large sectional stringers, good masonry sub-structures, and most of them properly floored. They were each examined and found in good order.

All of the depots are well maintained, and, with few exceptions, were found in cleanly condition. The platforms are being gradually removed, and a graveled way substituted for planking.

The fencing is in fair order, and all highway crossings and overhead obstructions have proper signs and warnings.

Charlotte to Richland.

This division is ninety-eight miles in length. It has long, tangent and easy grades. From Charlotte, for four miles, the road lies almost directly upon the lake shore, and at some points the waters of the lake have washed away the sandy bluffs, and made serious encroachments upon the road-bed. A crib, 1,500 feet in length, filled with stone, has been constructed at the most encroached point, and appears to resist the action of the water, but the distance protected is short of the necessity, and further like work will soon be required.

The road-bed is only partially ballasted, and a slight raising of track, with new ballast, would aid very much in maintaining a good line and surface of super-structure.

Between Charlotte and Oswego there are forty-one and one-half miles of steel, the balance of the rail is the iron originally laid, portions of which are considerably worn. From Oswego to Richland the rail is all steel, angle plates are used for fastening joints, and the improved Cooke safety switch has been placed in all branches out of main track.

The ties on this division are mostly in good life, large renewals having been made this year, but the line and surface of track, owing, partly, to the scarcity of ballast, is only in medium condition. Occasionally a very workmanlike piece of track was noticed.

There is a double-track pin connecting pivot draw-bridge crossing Genesee river at Charlotte, 300 feet in length over all; a sixty feet through riveted lattice at Sterling Valley; two plate girder-deck bridges, forty feet span, over streets at Oswego, and a double-track pin-connected bridge of two spans, and a pivot draw-over Oswego river at same place—all in good order. Also nine Howe draw-bridges from thirty to 109 feet span, and from three to fourteen years old. Of these Howe trusses, No. 34, near Pleasant Valley, has some poor chord members, and a bent at center was advised. Bridge No. 35 is in much the same condition. Near Mexico is a thirty-seven feet span-straining beam truss on bents, which is to be replaced with a Howe truss. The other bridges are in good condition, and all have a good flooring.

There are a number of trestle bridges from fifty to 800 feet in length, and a large number of single-span openings, all of which are in reasonably good condition, and are now provided with substantial flooring.

The fences, with occasional exceptions, are in very good repair. It is stated that seventy-five miles of new wire fence, on the entire road, will be constructed this year.

The station buildings were each examined, and most of them found in good order and very clean. A few of the depots have been painted this season.

Richland to Norwood.

This division is 105 miles in length, and showed great improvement.

The rail is now all steel, mostly angle-plate fastenings, and the ties are well maintained.

The road-bed is of ample width at all points, but the same scarcity of ballast exists, so noticeable on other portions of the road, much to the detriment of a perfect maintenance of superstructure. The line and surface of track is in ordinary condition, but could readily be kept in better order, if a light coating of new ballast was placed upon the road-bed, and a thorough relining and surfacing once accomplished. Between Richland and Watertown the ballast is very good and ample in quantity, resulting in an excellently maintained track. The truss-bridging on this division is as follows: At Little Sandy creek are three spans of through Howe truss, thirty feet each, badly sap-rotted, and should be rebuilt. It is intended to replace with plate girders this season. Big Sandy creek bridge is a sixty-foot span Howe through truss, built in 1875. At the crossing of Black river at Watertown are two 100-foot spans of through pin-connected truss, and two 100-foot spans of through Howe trusses, built in 1872, and one seventy-foot span, covered, built in 1864. The timbers in this last span are in good condition but the rods appear light, and their strength will be determined by the strain sheets. At Evans' Mills is a thirty-eight-foot span low Howe truss, built in 1881, and north of Philadelphia, crossing Black creek, a fifty-three-foot span built in 1878. North of Keene is a low Howe truss built in 1877, in good life of timber, and crossing the Oswegatchie at Gouverneur are three spans of seventy-eight, seventy-nine and eighty-eight feet Howe deck trusses nine years old, which have a few partly decayed chord members that should be renewed. Immediately north is a thirty-foot span low Howe truss seven years old, which requires a few new floor beams. Grass river bridge is a low Howe truss of four fifty-foot spans, built in 1882, and north of Canton is a forty-five feet span low Howe truss, built the same year. Near Potsdam is a thirty-three feet span Howe truss in good condition, and crossing Racquet river are seven spans of through Howe trusses from forty-eight to fifty-four feet each, built in 1883. All of these trusses have a good floor system. The single span water-ways and cattle-passes have in part a like flooring, and the remainder of them are now being supplied with same.

The depot and junction-yard at Richland are well suited for the transfer of passengers and neatly kept. At Sandy Creek there are two good waiting-rooms, well furnished, but untidy. Mannsville is the same, but neat and orderly. Pierrepont Manor has a small, unfit and unwholesome one waiting-room depot. Adams has a good, clean, large waiting-room. Rice's is a new station recently established, and has a well-furnished depot. Watertown has a large brick-station building and covered platform attached, in all respects suited to the wants of the city. Evans Mills, Philadelphia and Antwerp have each two good, well furnished waiting-rooms, and the same may be said of Gouverneur, Canton and Potsdam. At DeKalb junction is a good two waiting-room depot, but it is dingy and untidy, and should be renovated. At Norwood the company have a good depot, well furnished, which is used jointly with the Ogdensburgh and Lake Champlain Railroad Company. All highway-crossing signs are in place, and over-head obstructions have warnings.

DeKalb Junction to Ogdensburgh,

Distance twenty-one miles, and, with the exception of three miles of steel, is laid with chair iron, secured at ends with the Howe joint, and fish-plate connected iron rail. The road-bed is of ample width; ballast very thin; ties generally in good life, and, for the kind of rail, the surface and line of track is in fair condition.

The first structure is a five-bay trestle of sixteen feet spans, on a curve. The

timber in bridge is in good order, but the ties are too old, and should be renewed. The next bridge is a covered through Howe truss, twenty-two years old, and ninety-two feet spans, and five bays of trestle approach at the northerly end. This bridge is in fair life, and trestle appears in good condition, and is followed by a fifteen feet bay trestle of sixteen feet spans, in good order. The next is a thirty feet span low Howe truss, twelve years old, with trestle approaches, all in good condition. Near Heuvelton is a two span through Howe truss, 120 feet each, built in 1882, and has standard floor. The last bridge is two forty feet spans of Howe truss, thirteen years old. The timber in this bridge is in very poor life and should be renewed, or bents placed under it at center of spans. A flood-bridge follows consisting of five fifteen feet spans with masonry abutments and piers. The timber and ties are too old and should be made new.

Rensselaer Falls has a good depot but untidily kept. Heuvelton has two good, clean waiting-rooms, and Ogdensburgh a large one waiting-room depot and general office. This station has recently been thoroughly renovated, newly furnished, and is now in all respects suitable for a terminal depot.

All highway signs and overhead warnings are now in place.

Cape Vincent Branch,
From Watertown Junction to Cape Vincent,

Distance twenty-five miles; has easy curvature, light grades and long tangents, one of which is eleven miles in length. The rail is chair iron, secured at ends with the Howe fastening. The ties are well maintained, and surface and line of superstructure in workmanlike condition. The fences are in fair order, and roadway neatly kept.

At Watertown junction, and crossing Black river, are three spans of through Howe trusses, built in 1862. The bridge has been kept well housed, but is now too old, and a plate girder deck, seven feet depth of trusses, and eighty-nine feet spans will soon replace the old structure. Crossing Perch creek is a fifty-three feet span Howe deck bridge built in 1879, and has a good floor. Near Brownville is a forty feet span low Howe truss, too far decayed, and should be immediately rebuilt or bent at center. Crossing Chaumont bay are fifteen bays of trestle, twenty-five feet spans each. This trestle or bridge has double bents with straining beams and spur braces under track stringers. It is nine years old and now in fair life of timber. The next bridge is a forty feet span, Howe truss, decayed beyond much further use, and is bent at center of truss, and is followed by another bridge of like span and construction, but in better condition.

There is no depot at Watertown junction; but an engine-house and small repair shop are located there. Brownville, Limerick, Chaumont and Three-Mile Bay have old fashioned, high platform, freight and passenger buildings combined. They are well furnished, but the buildings are in a dilapidated condition. At Cape Vincent the depot is a covered train-house and hotel attached; it also has a good dock and platform on the St. Lawrence river, adjoining the depot. A new freight-house has lately been constructed, and the whole terminal is in good order and neatly kept.

All highway signs are in places, and stub switches are used.

Richland to Rome,

Distance forty-two miles; all steel rail, fastened with angle plates, and laid alternate suspended joints. The road-bed is very wide—curvature light and grades easy. Most of the ballast is of sand, and ample in quantity. The ties are well maintained, and superstructure in very good line and surface. The fencing is old, but very well kept up.

There are twelve truss-bridges between Richland and Rome, each of which, and all the smaller openings, were examined. From Richland, the first bridge is a low through Howe truss, seven years old. The truss rods are said to be too light, and truss is bent. Then follows a two span deck Howe bridge, sixty-five feet each, thirteen years old. It has some decayed chord members and floor-beams which require speedy renewal. The next bridge is a seventy-two feet span, Howe deck, in good order, followed by three bridges of fifty-five feet spans of through Howe trusses. Two of these bridges are in poor condition. The timber is old, and truss-rod washers indented three-fourths of an inch into upper

chords. They are nine or more years old, and uncovered. The next bridge is a two eighty feet span Howe deck truss, in fair life of timber, followed by a forty feet low Howe truss in good order, and a fifty feet span in same condition. At the lower crossing of Fish creek is a seven span low Howe truss, of fifty feet each. The upper chords are considerably weakened by decay, and should be renewed. The other truss members are in good life. All the foregoing bridges have a strong floor system, and good masonry substructures.

The single and double span water-ways, cattle-passes, and farm under crossings have good masonry abutments. The stringers are in good order, but the flooring on many is insufficient.

At Albion is an old depot, dingy in appearance. Kasoag, Williamstown and McConnellsville have good two waiting-room depots, well furnished, clean and lately painted. West Camden depot is in like condition. At Camden there is a poor dilapidated station building.

The Central-Hudson depot at Rome is jointly used and maintained.

Syracuse Northern Division,

From Syracuse to Pulaski,

Distance thirty-eight miles. Subsequent to the inspection and report on the condition of this division, May 25, 1885, a re-inspection was made, and the road found to be greatly improved. Fifteen miles of steel rail have been recently laid, completing the entire removal of the iron rail, much of which was over worn. With the exception of a few stub switches, yet to be changed, those out of the main track are now of the improved Tyler pattern. Eighteen thousand new cedar ties on tangents, and tamarack on curves, have been used, and the sleepers are, as a whole, now in good condition; and more old ties are yet being removed. The line and surface of track has been improved but, owing to the want of sufficient ballast, more or less excessive unevenness will arise during the following winter and spring. There is really no good ballast material on this division, but at the northerly end the road passes through sand knolls, which would answer a fair purpose for ballasting. A slight raising of track from Syracuse to Pulaski, followed by a careful surfacing and lining of track, would make a smooth riding superstructure, and one more easily kept up during the winter and spring months.

The inspection of last May revealed a number of poor, broken masonry abutments at short openings. These have been relaid, and all the openings, except a few cattle-guards which are to be filled, have now a good strong floor. The riveted lattice bridge over the Erie canal at Liverpool had quite a number of loose rivets, important for the security of the bridge; these have been thoroughly replaced with new rivets, and the structure is now in good order. Very little attention has been given to the weeds and underbrush along the roadway, and the fencing is in a dilapidated condition. Extensive renewals will, another year, be necessary to properly inclose the road.

Good highway warning signs have been placed at all roadway crossings. They are of legal construction, both in position and size of lettering. All overhead obstructions are supplied with warnings for trainmen.

The depots are the same as reported at the previous inspection.

Generally, the Rome, Watertown and Ogdensburg railroad has been greatly improved since the inspection of 1883, and further betterments, such as the laying of balance of steel rail between Oswego and Charlotte; the replacing of insecure wood bridges with iron trusses and increasing the strength of sleepers, are in progress. All the truss bridges and stringer openings at all defective should be renewed before another spring, and the following summer ought to witness a thorough ballasting, surfacing and relining of track. When this is done the maintenance of way will be inferior to none in the State.

SARATOGA, MT. MCGREGOR AND LAKE GEORGE RAILROAD.

This narrow gauge suburban railroad was examined early in the season, and before its opening for summer travel, during which time it is only operated. The road is comparatively new.

There are twelve pile and timber trestles on the line, from five to twenty-three spans each, and from twelve to forty-five feet in height. Each of these were carefully inspected, and, with two exceptions, found to be in good condition.

Bridge No. 2, a pile and stringer structure, has two bents at south end in which the center piles have settled, causing the caps to spring considerably. Both of these bents were subsequently strongly shored.

Bridge No. 5, a timber trestle, has three spans at easterly end in which the stringers showed some weakness when loaded with an engine. This defect was remedied by placing a bent under the center of each span. In this bridge there is one long span of girder trussing, and an additional truss rod, one and one-fourth inches in diameter, has been added to each side.

All the cattle-guards, about sixteen in number, have the rail directly upon the stringers. A closely tied floor, as advised by the Commission, would add much to the security of these openings.

The road has been in operation only three years, but the timber in bridges and sleepers are in good, strong life.

The line and surface of track was found in only medium condition, but was improved to some extent during the summer.

At Mt. McGregor increased terminal facilities, such as covered and enlarged platforms, car-sheds and other conveniences, have been added.

The passenger cars were in excellent condition, and particular attention is given to the equipment of efficient brakes on the cars and engines, so necessary on a road of such steep gradients.

There are a number of way stations on the road, each provided with suitable depots, which, with the depot at Saratoga, were found very orderly and neatly kept.

A detailed outline of the property will be found on page 303 of the first volume of Commissioners' report for 1884.

SCHOHARIE VALLEY RAILROAD.

At page 304 of first volume Commissioners' report for 1884 will be found an outline and correct representation of present condition of this road.

A few of the smaller openings have too old stringers and should be renewed. Near Schoharie junction, where the original iron rail yet remains, joints were noticed without fastenings of any kind, with ends unsupported and bending down. The overhead obstructions are still without warnings. Very little, if any, improvement in condition of the property is noticeable. The Middleburgh and Schoharie and the Schoharie Valley railroads are operated together as one road, with the equipment of both used in common. The cars and engines are in no better condition than last year. The roads are operated at a very low rate of speed.

SOUTHERN CENTRAL RAILROAD.

The inspection of this road, made in 1884, was in great detail; necessarily so by the low condition of many of the trestle and pile bridges, waterways, cattle-passes, and some of the wooden trusses. These aggregate in length about two miles, and are divided into about two hundred and sixty separate openings, exclusive of the iron bridges and cattle-guards.

With the exception of a dozen structures, all the foregoing openings have timber and pile substructures. Very little masonry was constructed in the building of the road, owing to the scarcity of good stone along the route.

The inspection, this year, was made about the middle of May, a little earlier than usual, in order to timely advise the Commissioners if neglect of renewals, absolutely necessary, still existed.

Your Inspector found that no default had been made in the rebuilding or repairing of those trestles, pile abutments and stringer openings, noted as defective in the previous report, and which were pointed out to the officers of the road during the inspection of 1884 as being unsafe.

Other structures, known to be not as strong as desirable, have also been reinforced or rebuilt.

A reference to last year's report will make it unnecessary to give a detailed statement of the work that has been done, and of the renewals and repairs in progress. It will suffice to say that all the openings are now secure, at least from danger of immediate failure, and will soon be in strong life and condition.

One thousand tons of steel rails have been laid between Owego and Weedsport since last fall, leaving a few miles only of iron rail between those points and the ties have been reinforced, until the superstructure is now in good order.

Between Weedsport and Fair Haven, a distance of twenty-one miles, the old iron rail still remains and is in poorer condition by another winter's wear than when last inspected. Extensive renewals of this rail will soon be necessary.

This part of the road suffers much for a sufficient quantity of good ballast, and the same may be said of the road south of Auburn. The low joints, uneven surface and waving line of the track show the difficulty of keeping a workmanlike superstructure on an earth material.

In other matters of maintenance of road-bed and road they are about as reported last year.

To some extent the Lehigh Valley railroad have now the management of this property, and another season will probably show great improvement in its condition.

STERLING MOUNTAIN RAILROAD.

From Sterlington, on the New York, Lake Erie and Western railroad, near the State line of New Jersey, to Sterling mines, distant about eight miles.

A standard gauge road, more exclusively for the transportation of ore, coal and iron of the Sterling Iron Company. The line of road is curved for most of its entire length, and the maximum grade west is 197 feet, and easterly ninety-five feet per mile. There are very few easy grades on the line. The road is built almost entirely upon the lands of the iron company, of which they own a tract comprising 47,000 acres, and the railroad is considered as private property. No time tables are used, tickets sold, or baggage checked. The company has no passenger equipment, but occasionally, during the summer, excursion parties are carried over the line in cars of the Erie Railroad Company. There are two and one-half miles of steel rail in the superstructure; the remainder is chair iron, all weighing fifty-six pounds per yard, and laid alternate joints. The iron rail is considerably worn. The ties are much run down, quite a number too old for much resistance to lateral strain; and for an almost continuously curved line, frequently of 600 feet radius, they should be better maintained. Two thousand eight hundred oak and chestnut ties per mile are used. For ballast, cinders, to some extent, are used, but the greater part is gravel, and the road-bed appears to be well supplied, but the track was found uneven in surface, joints badly down, and it appears to have had little attention in some time.

Trains are run at a speed not exceeding eleven miles per hour, yet a better surfaced road would be more serviceable, and lessen repairs of rolling-stock.

There are no truss bridges and but few stringer openings. These were each examined, and, with an occasional exception, found in good order. No attempt beyond tying, same as on the road-bed, is made in the matter of flooring of these small structures.

There are no depots except at the junction with the Erie road. Where the line runs through lands other than the company's, fences are maintained; on their own property there are none.

For the purposes intended, the road is in fair order, but as a protection to employees the openings should be properly floored, and the ties brought up to a competent strength to prevent derailment on the many sharp curves.

STONY CLOVE AND CATSKILL MOUNTAIN RAILROAD.

In volume one of Commissioners' report for 1883, at page 381, may be found a report of the last inspection made of this three feet gauge railroad. Since that report the road has developed a larger local business for the whole year, and it cannot now be classed with the exclusive summer operated roads.

The general outline of property remains as last reported, but its condition of way is very much improved. The side cuttings have been further sloped, and less trouble is experienced in keeping the ditches open by reason of slides and the loose stones, seemingly ready to roll upon the track, have been largely removed. The ditching is now quite thorough, short sags in the grade have been raised up and road-bed widened, until now it is quite ample for the gauge of road. Very much relining and surfacing of track has been accomplished, and the present condition of the superstructure is commendable. The road has been built but a short time, and the ties and timber work are in fresh life. All the trestle bridges except two, necessary for water-ways, have been filled. The

Queen truss bridge, five spans in all, are to be reinforced at first set of rods as advised by the Commission, and the rods for this purpose are now delivered at each point. All highway crossings are now protected with crossing signs. The improved condition of the track removes the danger heretofore arising from transporting standard gauge freight cars on the narrow gauge trucks, which is extensively done. There are a number of short, single span openings very well constructed and ample in strength.

The equipment is maintained in as good order as when last inspected. Air-brakes and Miller couplers are on all cars. The engines have air-brakes acting entirely independent, a feature of safety necessary on a road of such heavy grades. All the passenger equipment and engines have lately been renovated, and present a clean, bright appearance, and the entire property shows energetic supervision that must be gratifying to those benefited by its construction.

SYRACUSE, BINGHAMTON AND NEW YORK RAILROAD.

From Geddes to Binghamton, a distance of eighty-one miles, thirty-three miles is double tracked. From Syracuse to Apulia, nineteen miles, the grade rises continuously at the rate of fifty-three feet per mile, and then gradually descends 400 feet to Binghamton. The curvature on portions of the road is excessive, particularly on the heavy grades, and also where the road follows closely the Tioughnioga river.

The roadway, averaging about sixty-six feet in width, was found neatly kept, and the fences generally well maintained; at some points, however, extensive repairs are necessary.

The road-bed is full width, thoroughly drained and ballasted. On portions of the line the ties are in good, sound condition, and on others in poor life, though not continuously unsound; renewals were being made at time of inspection. They are mostly of hard wood and spaced about 8,100 per mile. The rail is steel, sixty and seventy pounds per yard, portions of which are somewhat worn, but, as a whole, in good order. The point and Wharton switches are used; the latter has what is known as the Ball Switch stand, a device requiring the switch to be held open while being used, and when not so held, drops of itself and closes the main line.

The condition of the surface and line of track was remarkably good; portions of the track were, so far as the eye could judge, absolutely perfect, and shows very competent supervision. In the yard, at the Syracuse depot, there is in use what is called the Fennel yard switch, a safety device well adapted for yard service.

There are four iron truss-bridges; three of about eighty feet single span, and a double intersected riveted deck of four spans of 130 feet each (total length, 540 feet), crossing the Chenango river, south of Chenango Forks, and is a continuous truss, resting upon strong masonry abutments and piers. The two shore spans are on bents at first and second panel points, and bents were used under the river spans, but were removed last spring. Trains cross this structure slowly. The strain sheets, now being prepared, will determine the strength of the truss. A careful inspection revealed no loose rivets or imperfect fittings. The other two iron trusses were found in good order but require painting. They all have a good floor system. There are twelve plate-girder structures from eighteen to forty feet spans, and six low through Howe trusses, from thirty-seven to sixty-three feet spans. These trusses are of excellent construction and in good condition. The truss rods are not upset and may require reinforcement, which will be determined by the strain sheets when rendered. The short minor openings were examined and generally found in good condition. At such points as practical, cast-iron pipes are being laid for water-ways, and the openings in road-bed filled up. All highway crossing signs are in place, and over-head obstructions are provided with warnings.

The station buildings and repair shops at Syracuse are good, brick structures. The passenger station is two stories, the upper floor being used for general offices. There is one large waiting-room with baggage-room and closets, well furnished, and the whole very cleanly throughout. The shops are of moderate size, supplied with modern machinery, sufficient to construct as well as to repair engines and cars. The condition of these buildings and surroundings, was evidence of competent care, and the quality of work done in them, and the detailed report of work

performed by the machinery on the road, with cost of maintenance, sustained the opinion. One or two new locomotives have been recently turned out of these shops, which for simplicity of construction and effective working are inferior to none thus far seen by your Inspector. On the return trip, upon a nearly level grade and with one ordinary coach attached, a speed of five and three-tenths miles in four and one-half minutes was made without the least over-heating of the journals of engine, and the engineer offered to drop off safely one minute in time if desired, which offer, however, was cheerfully declined. When the speed was greatest, the body of the coach appeared to be lifted in part from the trucks, and there was scarcely perceptible lateral or vertical motion until it began to slacken, when the body of the car settled gradually down to its bearings. This fast rate was made where the track was apparently perfect.

Jamesville has a two waiting-room depot, cleanly inside, but platform somewhat dilapidated. Onativia has one waiting-room, cleanly and well furnished with individual sittings. Apulia has two waiting-rooms in good order and well furnished. Tully is a like station, and Preble has one waiting-room in good order. At Homer there is a large two waiting-room depot, very neatly kept and well supplied with sittings, and Cortland has a like station, very bright and clean. At State Bridge, Marathon and Killawog are good one waiting-room stations, all very tidy and quite well furnished. Lisle has a two waiting-room depot, very bright and cleanly, and good platforms. At Whitney's Point, a good one waiting-room depot is provided, but the platform wants repairing. Chenango Forks and Chenango Bridge have each a good station, very cleanly, well furnished with good, strong platforms. At Binghamton the main line depot of the Delaware, Lackawanna and Western road is used. Generally the Syracuse and Binghamton road is well maintained.

SYRACUSE, ONTARIO AND NEW YORK RAILWAY.

Originally called the "Syracuse and Chenango Valley," and extends from the city of Syracuse, forty-three and one-half miles, to the village of Earlville, N. Y., where a junction is made with the New York, Ontario and Western railroad. A careful, detailed inspection was made, particularly of the south end of the road, from the tunnel north of Cazenovia to Earlville, a distance of about twenty-five miles, which is much below the northern end of the line in general maintenance. From the tunnel to Syracuse, with the exception of about one-half mile, the road is laid with steel, five miles of which has been laid within a few months, and all is in good condition. The ties have been suffered to depreciate too much in strength, and extensive renewals appear necessary; also the ditching and ballasting require considerable attention, and the fencing large renewals. The bridging is in fair order; the iron trusses require painting, and a few floor-ties and guard-rails are wanting. Portions of embankments on the grade descending from the tunnel to Limestone-creek crossing are quite narrow, often sloping directly from end of ties on the downhill side of road-bed.

Oran, Manlius and Fayetteville have very good station buildings. At Syracuse the depot of the New York, West Shore and Buffalo railroad is used, and the company have a small shop in which ordinary repairs of engines and cars are made. Near Cazenovia is a tunnel, cut through slate rock and lined with rubble masonry, 1,700 feet in length. A portion of the bench-walls have failed and buttresses have been added to hold the crumbling masonry in place.

South of this tunnel the road is in very poor condition—in fact it appears too low for the safe operation of the road, over which a considerable tonnage is moved.

At Cazenovia, a junction is made with the Elmira, Cortland and Northern railroad, from whom are received 50,000 pounds, net capacity, coal cars of the Pennsylvania railroad, and are thence transported to Earlville.

Two passenger trains each way, daily, pass over the road, at a speed of about twenty-five miles per hour between stations.

As a whole, the alignment is considerably curved, probably reaching a maximum of six degrees, and the grades approximate sixty-five feet per mile in either direction from this summit, which is near the center of the line.

As before stated, the condition of the superstructure south of the tunnel is such as to cause serious apprehension of danger. The iron rail is much overworn, broken, battered at joints and occasionally bent, both vertically and horizontally. Patching of rail has been extensively resorted to; short pieces of rail were no-

ticed, six feet in length, reaching only from the first to the second adjoining tie, the fastenings often insufficiently bolted, and occasionally none at all in one end of rail. The ties are even in a worse condition. Places were observed where four successive ties were too far decayed to properly hold a spike. Certainly every third tie should be renewed, and probably a greater proportion are unfit to remain. Of ballast, very little appears, except adjoining a gravel-bed near the center of the line, and the drainage of road-bed has been too much neglected.

The surface and line of superstructure is in a very unworkmanlike condition; deep low joints are almost continuous, particularly in the wet undrained cuttings.

Many of the openings, of which there are a large number, have good stone abutments, and some have iron plate girders, but largely the cattle-passes, waterways and openings are pile or trestle structures with plank in rear of shore bents, to withhold the earth in road-bed. At many openings these planks have become entirely decayed, and the earth is breaking through them; hence they are liable to undermine the track adjoining the opening.

The timber in the bents and track stringers were found, in many instances, seriously decayed; two or more stringers found broken were temporarily repaired. Renewals to some extent have been made, but not sufficiently general to bring them up to a proper condition.

The fencing on this portion of the line is insufficient in maintenance to withhold farm stock from trespassing upon the tracks.

Stub switches are in general use.

Seventeen highway crossings are without warning signs.

Low overhead obstructions have warnings for trainmen.

The absence of a proper flooring, of openings and of guard-rails is quite frequent, and this defect, coupled with the poor condition of superstructure, forms a serious element of danger.

The station buildings south of the tunnel, excepting Cazenovia and Earlville, are small, and as a rule untidily kept, requiring more or less renovating. A comparatively small outlay would place all the openings in a perfectly safe condition, and safety of operating the road assured, providing the speed of trains was reduced to a rate low enough to avoid danger of derailment occasioned by present condition of superstructure.

October 10, 1885, this road was again inspected and found in rather better condition than when last examined. The road from Syracuse to the tunnel, a distance of about nineteen miles, is in fair condition. A renewal of ties has strengthened the superstructure, but it is still insufficient in strength, and a more thorough renewal of decayed sleepers is necessary.

From the tunnel to Earlville, a distance of twenty-four miles, the road remains in about the same condition as before reported, except that the timber stringers have been overhauled, and are now competent to uphold the weight imposed. Many of these openings have been newly and closely tied, but all are destitute of guard-rails or spacing ribbons.

A Howe truss at the crossing of Chittenango creek, decayed beyond much use, and supported with pile bents, is the only wooden truss on the road, excepting short girder rod trusses. There are several riveted lattice and plate girder bridges. They were all inspected, and no loose rivets or imperfect work was found. The flooring of these bridges is not such as advised by the Commissioners, the ties are widely spaced as on road-bed, and no guard-rails or spacing ribbons are used. The first of these iron bridges is a 100 feet span through lattice, crossing the Central-Hudson tracks near Lodi. At Limestone creek there are three spans of plate girder deck, ninety feet over all; and near Fayetteville there is a 120 feet span through lattice crossing the Erie canal, and a thirty feet span of like construction over an adjoining highway. At another crossing of Chittenango creek is a deck riveted lattice, and near Erieville a twenty feet span plate girder deck bridge. North of Earlville, there are three plate girder deck bridges of twenty and twenty-five feet spans. All of these iron bridges rest upon good masonry abutments.

There are about seventy other openings, exclusive of cattle-guards, in the road, such as waterways under farm crossings, and cattle-passes from one to five spans each. One-half of these have pile or trestle bents, with plank in rear of shore bents, more or less decayed, as noted in the previous report. The other half of the small openings have a good quality of masonry abutments.

The ties and rails, between the tunnel and Earlville, are certainly in only little better condition than when examined last May, but there is now some old rail at hand to replace or patch out those sure to be broken if the road is used another winter in its present condition.

A serious defect and important factor in the maintenance of track is the want of sufficient ballast under the superstructure. Near the center and at the summit of the road a deep cutting is made through a hill of excellent gravel, and for a mile or more each way there is a fair coating of ballast on the road-bed. With this exception there is very little ballast under the track. A thin coating may once have been strewn over the road-bed, but now only in few instances is the quantity sufficient to maintain a good surfaced road.

The ditches in many of the cuttings are too shallow for proper drainage, adding much to the labor, in fact making it almost impossible to keep up a smooth track.

The condition of the ties has been improved to some extent, but they are yet too low in maintenance for safely operating the road at a desirable rate of speed.

The highway crossings noted in last report as destitute of caution signs are still without them, and many of these crossings are extensively used.

Since the above report was made, the following has been received at the office of this Board :

* * * * *

I have forwarded your letter, with its accompanying report by Mr. Spencer, to our superintendent at Syracuse, with instructions to do all in our power to comply with the requirements of your Board.

Very respectfully,
ASHBEL GREEN,
President.

SYRACUSE, ONTARIO AND NEW YORK RAILWAY COMPANY, }
120 BROADWAY, NEW YORK, 2d November, 1885. }

WM. C. HUDSON, Esq., *Secretary, etc., Albany :*

DEAR SIR—In further reply to your communication dated 20th October, and delivered here 23d October, I beg to say that our general superintendent informs me he is getting ready the bridge ribbons you suggest as rapidly as possible. We are also doing all we can to carry out the other suggestions of your Board.

Very respectfully,
J. P. ORD,
Treasurer.

TONAWANDA VALLEY AND CUBA RAILROAD.

A three-feet gauge railroad, fifty-nine miles in length, extending from Attica to Cuba.

Early in December of last year the joint management, under one supervision, of this and of the Bradford, Eldred and Cuba railroad was discontinued, and both properties passed into the hands of receivers.

Thus far this season the Tonawanda Valley and Cuba railroad, between Attica and Arcade, the oldest portion of the line, has not received the repairs and renewals that a careful inspection finds to be necessary.

Between Arcade and Cuba, thirty-three miles, the road is of later construction, and the material in bridges and superstructure has not deteriorated to an extent that would cause apprehension of failure, and may generally be reported as in good condition, and the line and surface of track in reasonable maintenance. On this section of the road there are but few bridges beside the long trestle over the Rochester and Pittsburg railroad near Rushton, and that over the Buffalo, New York and Philadelphia railroad at Cuba. All of these trestles are in good life of timber, ample in size of members, and have a flooring of large ties, closely spaced, and a ribbon at ends to hold them in place.

Considerable ditching and ballasting of road-bed have been done this season, and the roadway has a neat appearance; but of fencing there is yet only a very few scattered short stretches.

Between Attica and Arcade, a distance of twenty-six miles, and particularly from Attica ten miles south, the sleepers are entirely too low in strength, rendering the condition of track unfit to enter upon the winter now near at hand, and

when so little can be done to improve its condition. The ties are of hemlock timber, sawed, six inches square and six feet in length. At many points four successive ties were noticed as unable to hold the spike, and they were found often broken in two under the rail. It was stated that 5,000 ties would at once be renewed between Attica and Arcade, but that number will certainly be inadequate to properly tie that portion of the line. At least twice that number could be advantageously used.

Many of the cuttings require extensive ditching. The material could be used to widen narrow embankments, a number of which slope directly from the under side of the ends of ties.

The short sags in road noted last year have been taken out, and now the general plan of road-bed is uniform.

Of ballast, there is very little under the superstructure. The surfacing of track is mostly done with material from sides of road-bed, which is of a clayey nature mixed with some stone.

The general surface and line of track is fair, particularly from a point ten miles south of Attica to Arcade, but it could be greatly improved if the ties were of sufficient strength to allow of their being disturbed.

There are forty trestle bridges, from one to five or more spans, between Attica and Arcade. They are constructed of hemlock timber, of ample size, but occasionally show decay, and while they have watchful care, many renewals having been made this season, there remains yet old timbers in them that should be replaced. Nearly all these trestles have old ties too widely-spaced, and no guard-rails or spacing ribbons are used.

As there is very little fencing, cattle-guards are used at property lines as well as at highways. They all have the rails directly upon the stringers.

Stub switches are used, and in one or more instances open cattle-guards are located not more than thirty feet from them. It would be advisable at such points, at least, to provide a good floor for these more than ordinarily exposed openings.

This part of the road passes through a farming district, stocked more or less with cattle. Derailment is said to have lately occurred, caused by running over farm stock, the danger of which would be largely removed if a proper fence was maintained.

The end braces of the truss bridge near Attica have not as yet been braced to prevent undue flexure, as advised by the Commissioners. At Arcade there is a through Howe truss about ninety feet span, crossing the Cattaraugus creek, and a pile bridge approach at the south end. The whole is in good condition, has a standard floor, and was constructed for a standard gauge road.

At Attica and Cuba the depots of the New York, Lake Erie and Western railroad are used, and a transfer of standard gauge bodies, to narrow gauge trucks, is made, making it the more necessary to keep up a strong, narrow gauge superstructure.

Johnsonburgh, Java Centre, Curriers, Arcade and Sandusky have good, modern style, combined passenger and freight depots. They are small, but ample for the business done, neatly kept and well furnished. Rushton is still destitute of a regular depot building, and the village being somewhat remote from the road, a good passenger station is very much needed.

There are now but two passenger cars and two engines in use upon the road, beside two baggage and other freight cars. The passenger cars need repair, and the engines are only in ordinary condition.

OFFICE TONAWANDA VALLEY AND CUBA RAILROAD, }
NEW YORK, November 13, 1885.

WM. C. HUDSON, Esq.,

Secretary Board of Railroad Commissioners:

DEAR SIR—Yours 10th received. We admit the correctness of the report of your Inspector, and can only say that we have been and will continue to put the road in safe condition just as fast as our resources will permit. We had hoped to issue some receiver's certificates to this end, but after they were authorized by the court an appeal was taken, and is now pending. I am, however, endeavoring to do what is absolutely necessary, and rely on earnings to pay for it.

Yours truly,

B. W. SPENCER, Receiver.

TROY AND BOSTON RAILROAD.

To the Honorable WILLIAM E. ROGERS, Railroad Commissioner:

SIR—I have made a careful examination of the Troy and Boston railroad to ascertain if any thing had been done by the management of that road conformatory to the recommendations of the Board of Railroad Commissioners.

The repair sections are seven and eight miles in length, and the winter force now employed is one foreman and three laborers on each section.

No changes in the position of stub switches near bridges and lesser openings in road-bed have been made, nor safety switches substituted.

The channel in the lower chords of the Tomhannock and Hoosick Junction iron bridge have been painted, but drain holes through lower plate of chords have not been drilled. No further painting has been done on any of the iron trusses.

The plate girder deck bridge over a highway near Lansingburgh has been placed on new wall-plates and the ends of girders isolated from the adjoining embankments.

The I beams, carrying the superstructure from top of parapet to the top chord of the iron bridge over Hoosick river have been supported at centre with a vertical 10-in x 10-in spruce timber, about twenty feet in height, with foot resting upon bridge seat.

No change has been made in the floor system of any of the bridges. Track stringers are unevenly supported by the floor beams at many points. Some attempt has been made to remedy this defect by shimming between floor beams and stringers, but the work has not been done in a permanent manner.

The west abutment of the Haines' bridge over Hoosick river, from the bridge seat to the top of parapet, has been rebuilt, and the abutment is now in good condition.

No change has been made in the construction of cattle guards.

Weeds and underbrush have not been cut the past season, except on one or two repair sections.

In the matter of excessive strain upon the tie rods of the larger Howe trusses, and the recommendation that they be reinforced sufficiently to bring them within the limit of stress adopted by the Railroad Commission, nothing has been done except at the Haines' bridge near Hoosick Falls; the first and second sets of rods have been reinforced by adding two one and five-eighths inch O rods placed on the outside of chords at both of the above panel points.

A few omissions of bolts at rail joints have been supplied.

Something, it was stated, had been done toward the better draining of superstructure, but many of the cuttings are insufficiently ditched and at points where there is danger of ice covering the track of road.

Respectfully submitted.

THOS. W. SPENCER,

Inspector.

Dated ALBANY, Jan. 21, 1885.

To the Honorable the Board of Railroad Commissioners:

GENTLEMEN—As instructed, Monday, April 20, 1885, I made an examination of the Troy and Boston railroad with the view to ascertain what had been done by that company conformatory to the recommendations of the Board of Railroad Commissioners for the better maintenance of said road and safety of structures found defective by a personal examination made by that Board, as recorded in volume 1, pages 314 and 315 of their report for the year 1884.

Referring to your communication to the Troy and Boston Railroad Company of October 11, 1884, I find the specific matters in which the recommendations of the Board therein contained have not been complied with are as follows:

Many bolts are gone from fish plates, joints of rails are still universally low, and the ditching is very defective.

The track force now consists of four laborers and one foreman for sections of seven miles in length. The absence of ballast alluded to still exists; although not injuring the safe operation of the road during certain months, at present, while the frost is coming out of the ground, it renders the superstructure very uneven and dangerous to operate at a high rate of speed.

The stub switch at the east end of the deck bridge over the Hoosick river, in a dangerous position, is still there.

The iron bridges over the Tomhannock and over the Hoosick river at Hoosick Junction are still bare of paint and rapidly deteriorating from rust. The lower channels are painted, but drain holes have not been drilled.

The iron plate-girder bridge near Troy is still devoid of paint.

The floor systems on all the bridges except on the Tomhannock are still defective, no changes whatever having been made, and the uneven bearing of track stringers on floor timbers on some of the bridges still remain.

The recommendations relating to better construction of cattle guards, under date of September 22, 1888, have not been complied with; and the statute requiring the cutting of weeds, referred to, has received only partial attention.

In the matter of reinforcement of truss rods of bridges to reduce stress of same within the limit of 10,000 pounds per square inch of section as adopted by the Board, the following bridges have only in part received attention: The Haines', the Petersburg Junction and the high bridge at Hoosick Falls have been strengthened by additional rods at first and second panel points only, but they are insufficient in size to bring them fully within the limit prescribed by the Commission. At the other panel points of same bridges, and at all the panel points of the remaining bridges, viz.: North Hoosick long and short spans; the Burnett bridge, the State line bridge, and the Burgess bridge long span.

Respectfully,

THOS. W. SPENCER,

Inspector.

Dated ALBANY, N. Y., April 21, 1885.

This road was inspected last season by the Commissioners, and the result of that examination may be found on page 814 of the first volume of their report for 1884.

An inspection of the Troy and Boston railroad for 1885 was made early in the season, and a report of its then condition made to the Board. Late in the present fall another inspection was made, with the following results:

The road was found improved in condition of superstructure and in some of the detail of construction and maintenance which had presented to the Board objectionable features, which evinced an effort on the part of the company to remove some of those objections.

Cattle guards of bad construction have, in three instances at least, been rebuilt with a good, strong flooring, and the truss bridges that had insufficient tensile strength of truss rods have mostly been reinforced. Where floors have been relaid on bridges, a good, strong standard has been adopted.

There yet remains a number of cattle guards and a few other short openings without a floor system, and some of these are located in close proximity to stub switches; notably, near the north end of yard at Troy and at Melrose depot. Such openings should be floored, or points used in place of stub switches.

The line and surface of superstructure is also improved, and while there are many low joints, especially in cuttings, insufficiently drained, and others said to be owing to the fish plate connections not being of strength to hold up the joint, as a whole the low joints are far less frequent than noted in the earlier inspection.

Considerable of road-bed, even on embankments, has too high shoulders, often above top of ties. Probably considerable good ballast exists in these shoulders, and if they were removed and the material used to lightly raise the superstructure, two good ends would be attained, viz., drainage, and a more easily maintained surface of track.

The ties are generally in good condition; 10,000 were said to be renewed this year, and the rail, which is all steel, is now in very good order. One hundred tons of new rail are being delivered to replace those broken at ends last winter and spring, and for general repairs.

The bridging remains about the same as before reported, except the reinforcement of truss rods and one or two newly floored. Most of the trusses have plank ties in floor, some of which are too old and too widely spaced. These floors should be strongly laid and properly guard railed—a plan adopted by nearly every road in the State. Many of the Howe trusses are covered, and have been in use a long time. Your Inspector examined such, and did not discover any timber that was unsound or joints showing any considerable opening.

The iron riveted truss over the Hoosick river at Hoosick Junction has been painted, and, with the exception of a few floor beams, is in good order. The remaining iron trusses require to be painted in order to save them from rusting.

Your Inspector was impressed with the necessity of a more thorough ditching in the cuttings, now wet. Such drainage would reduce the action of frost very much, and consequently less danger of rails breaking and of unevenness of track which, under such circumstances, often occur within a few hours.

The repair shops at Troy and the local station buildings are in about the same condition as before reported. At Eagle Bridge a new freight-house has been built. The station-houses at Johnsonville and Petersburg Junction are new buildings, convenient and well furnished. The other depots were inspected and found mostly neat and whole, but Valley Falls and Hoosick Falls were very untidy. The station buildings at Hoosick Junction, Melrose, Walloomsac, and one or two others, should be renovated and better sittings for passengers provided.

On the Bennington branch, near the Vermont State line, a deck Howe truss, 500 feet in length and above forty feet high, was recently burned. A strong trestle of spruce timber has been erected to fill the gap. Some of its bents rest in the bed of Walloomsac creek, and the danger from moving ice will require careful and constant surveillance. It would seem that considerable of this opening could be filled, as a highway bridge near at hand has less than a 100 feet opening.

So far as could be seen at time of inspection, the motive power and passenger equipment were found in about the same condition as two years ago. Air brakes and Miller couplers are used. All highways have caution signs and overhead warnings for trainmen.

The fencing is generally quite old, but care appears to be taken to keep it in place and repair. Noxious weeds and underbrush were not cut beyond the limit of road-bed this season.

Generally there is improvement in the condition of the property — certainly the superstructure is in good order, and will enter the winter service much stronger than two years ago.

UTICA AND BLACK RIVER RAILROAD.

An interval of two years has elapsed since the last inspection of this road, and in the first volume of the Commissioners' report for 1883, at page 389, may be found a statement of that inspection. Since that time no additions to the main line or branches have been built.

At Castorland and Philadelphia (spur branches to lumber mills), and along the line, additional sidings have been laid. In Watertown, at Court street crossing, a stone freight-house, and in Utica additional brick shops for car repairs, have been erected. Otherwise the general outline of the property remains the same as when last inspected.

A further relaying of superstructure with steel rail has been accomplished, and now the entire main line from Utica to Ogdensburg, and a branch from Carthage to Watertown, a total of 152 miles, is steel rail, fifty-six pounds in weight, and about one-half is laid with angle-plate fastenings and alternate suspended joints.

The remainder of the branches, from Watertown to Sackett's Harbor and from Theresa Junction to Clayton, together twenty-eight miles in length, are laid with same weight of iron rails, which are in fair condition.

The sleepers, particularly on the southerly end of the road, show an improvement in maintenance; 100,000 were renewed in 1884, and this season 120,000 new cedar and hemlock ties will be used, making an average renewal of nearly one-fifth per year.

Generally the superstructure is well ballasted, the road-bed thoroughly drained, and the line and surface of track show commendable workmanship.

Between Watertown and Sackett's Harbor the superstructure is not as well maintained, owing in part to the scarcity of ballast and to the poorer condition of the sleepers. Trains are run slowly over this piece of road, forty-five minutes being used for the twelve miles.

There are twenty-six Whipple truss iron bridges on the line, averaging from one to seven spans of 80 to 100 feet each, and two short spans of wooden trusses in good condition. All the truss bridges have good flooring, and the iron work is well painted. The only trestle bridge of moment is an approach to Sugar River bridge near Leyden. It consists of twelve spans of fourteen feet each, is well constructed and in good condition.

Between Utica and Boonville there are about twenty trestles under highway and farm crossings, cattle passes and water-ways from two to four spans each, and about the same number of single-span trestles, and a number of openings with good masonry abutments. North of Boonville the road has mostly masonry abutments at all openings, and all truss bridging have a good quality of masonry for substructures.

The minor openings have timber girders, nearly all of which, about 260, were examined and, in all cases with few exceptions, the life and quality of timber was ample.

These openings have ties, generally closely spaced, but guard-rails or spacing ribbons are not used.

The roadway was found very neatly kept for most of the entire line, but instances of neglect in removing noxious weeds and underbrush were noticed.

The fencing is fairly maintained, and as a whole, was found in about the same condition as in 1883. Wire is mostly used in renewals.

There are two safety switches in the road; all of the others are of the stub pattern. Caution signs were found at all highway crossings, and overhead obstructions have warnings for train men.

The passenger equipment and motive power are well and neatly maintained.

At Utica the Central-Hudson passenger station and yard are used. Watertown and Ogdensburg have excellent passenger stations; but the way stations, too often, are not such as they should be, either in construction, maintenance or cleanliness.

In all other departments, adverse criticism would, in reason, be unjust, for the road is well maintained and safely operated, but the providing of convenient, clean and well-furnished depots, such as the community who, for years, have patronized the road deserve, has been too long neglected.

Between Utica and Boonville, and Carthage and Watertown, the old buildings, and those more recently built, have high platforms to the waiting-rooms. They are awkward and dangerous, and there is not sufficient room between these platforms and the track — defects that are well known to the management of the road, and which probably will in time be remedied. The matter of keeping the stations clean can and should receive immediate attention.

North of Boonville the station buildings are also passenger and freight rooms combined, but the passenger departments are left down nearly on a level with the top of rail. Many of these depots were found much neglected in maintenance, and too little attention given to furnishing good sittings and keeping them clean; and in a number of instances the passenger rooms are too small for the accommodation of the traveling public.

MINUTES OF THE BOARD,

REPORTED IN PURSUANCE OF SECTIONS 2 AND 10 OF CHAPTER
853, LAWS OF 1883.

OCTOBER 6, 1884.

The Board met pursuant to adjournment. Present—Commissioners Kernan and Rogers. The minutes were read and approved.

The Secretary submitted as unfinished business, the following:

Letter of Mullen & Griffin, asking extension of time to answer General Swayne's brief. Granted.

Letter of J. E. Childs, New York, Ontario and Western Railway Company, relative to West Point crossing. Ordered filed.

Letters of J. B. Kerr, New York, Ontario and Western Railway Company, relative to the Russell, Bunnell and Moon complaints. Ordered filed.

Letter of E. D. Northrup and report of Inspector Spencer, as to train accommodations from Ellicottville on the Rochester and Pittsburg railroad. Ordered, that Secretary write and ask what objection there is to backing down from Ashford Junction so as to start from Ellicottville at 5:45 P. M., and then run up to Buffalo.

Letter of Mr. Burns, president of the Herkimer, Newport and Poland Railroad Company. Ordered filed.

Letter of E. F. Winalow, president New York, Ontario and Western Railway Company, relative to the Seneca turnpike crossing. Ordered that the request be granted and that the complainant be so informed.

Report of Inspector Spencer, as to the complaint of citizens of Binghamton v. New York, Lake Erie and Western Railroad Company.

Commissioner Kernan offered the following:

WHEREAS, The New York, Lake Erie and Western Railroad Company having failed, though a reasonable time in which to perform the work has elapsed, to conform to the recommendations of the Board in the matter of the Common Council and Citizens of Binghamton v. New York, Lake Erie and Western Railroad Company, therefore

Resolved, That the New York, Lake Erie and Western Railroad Company be cited to appear before the Board at Albany, on October 14, at 10 A. M., to show cause why the Board shall not present the facts in said matter to the Attorney-General for his consideration and action. Adopted.

Letter of J. Crandall, Troy and Boston Railroad Company, as to inspection of that road. Ordered filed.

Letter of Jno. B. Russell, as to hearing on the 14th inst. Ordered, that Secretary write witnesses and counsel, not necessary.

Letter of Mr. Camp, Broadway Railroad Company. Ordered, that Evening Post be designated to publish notice of stockholders' meeting.

Letter of Delaware and Hudson Canal Company, as to Cobleskill crossing. Referred to Secretary to report at next meeting.

Letter of Charles Parsons, Rome, Watertown and Ogdensburgh Railroad Company, relative to answer to brief. Ordered filed.

Letter of J. F. Maynard, Utica and Black River Railroad Company, acknowledging receipt of recommendations. Ordered filed.

Letter of C. M. Depew, New York Central and Hudson River Railroad Company. Ordered filed, and that the matter be referred to Commissioner Rogers.

The Secretary submitted a report under resolution of September 23, as follows:

ALBANY, October 6.

To the Board of Railroad Commissioners:

Agreeably to instructions by resolution of September 23, I make the following report as to the cases decided.

WHERE INQUIRY WAS REQUIRED.

- No. 62. Citizens of Sandy Creek v. Rome, Watertown and Ogdensburgh Railroad Company. Decided April 7, 1884. Road has not complied with the recommendations of Board.
- No. 71. Aldermen of Utica v. New York Central and Hudson River Railroad Company as to Schuyler street crossing. Road expressed its willingness and intention to comply promptly, and has done so.
- No. 77. Trustees of School District No. 10 of Rotterdam, Schenectady county, v. New York Central and Hudson River Railroad Company. The company has complied with recommendation of the Board.
- No. 90. City of Utica v. Street Railroads of Utica, May 18. The mayor of Utica says "he is unable to find that the recommendations are complied with."
- No. 100. Streeter Brothers v. Fonda, Johnstown and Gloversville Railroad Company. Recommendations not yet carried out, though the road says it intends to do so, but has been prevented by pressure of business, and promises to do so before winter.
- No. 114. A. B. Benham v. Delaware, Lackawanna and Western Railroad Company (cattle-pass). Recommendations not complied with.
- No. 116. Village of Nelliston v. New York Central and Hudson River Railroad Company. Recommendations not complied with.
- Nos. 119 & 124. L. W. Ledyard and John Stebbins v. Elmira, Cortland and Northern Railroad Company. Recommendations complied with.
- No. 123. City of Binghamton v. New York, Lake Erie and Western and Delaware, Lackawanna and Western Railroad Companies. Board referred to recent report of the Inspector.
- No. 126. S. W. Hall v. New York, Lake Erie and Western Railroad Company. Unsafe condition of trestle. Vice-President Bowen wrote promptly (May 26) that he had issued orders to have the trestle made safe and dry.

CASES IN WHICH THIRTY DAYS HAVE NOT ELAPSED.

- Nos. 10, 17, 22, 74, 84 and 99. Complaints against the Utica and Black River Railroad Company. Last decision September 23.
- No. 102. S. and J. W. Post and Kipp v. Long Island Railroad Company. Decision September 23.
- No. 123. Village of Haverstraw v. New York, Ontario and Western Railway Company. Decision September 23.

NO JURISDICTION.

- No. 82. R. F. Stevens et al. v. New York, Lake Erie and Western Railroad Company.
- No. 98. Donner and Company v. American Express Company.
- No. 112. Douw H. Fonda v. New York Central and Hudson River Railroad Company.

DISMISSED.

- No. 80. Harding and Hollis v. Rome, Watertown and Ogdensburgh Railroad Company. No inquiry required.

All of which is respectfully submitted.

WILLIAM C. HUDSON,
Secretary.

Accepted.

The Secretary submitted the June, July, August and September bills of Argus Company at \$19, \$88.15, \$6.75, and \$51.85 respectively, aggregating \$166.75. Ordered approved. Bill of J. L. Parker. Ordered approved at \$87.

Commissioner Rogers reported on the letter of J. M. Toucey (New York Central and Hudson River Railroad Company) as to the crossing of Boston and Albany Railroad Company at Hudson, that an interlocking signal had been agreed upon. Report accepted and confirmed, and the Secretary ordered to communicate the order to the road.

Also, letter of Manhattan Elevated Railway Company. Ordered on file.

The Secretary was ordered to issue citations to appear before the Board at Albany, October 21, at 10 A. M., to show cause why they should not be reported to the Attorney-General, to the companies complained of in complaints Nos. 88, 62, 90, 114 and 116.

The Board adjourned until Monday, October 13, at 8 P. M.

WILLIAM C. HUDSON,
Secretary.

OCTOBER 18, 1884.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted as unfinished business the following:

Brief of Mullen & Griffin, in the matter of Stockholders v. Rome, Watertown and Ogdensburgh Railroad Company.

Commissioner O'Donnell moved that the papers in the case, with brief, be referred to Commissioner Kernan. Carried.

Letter of John B. Russell, relative to his complaint against the New York, Ontario and Western Railway Company. Ordered filed.

Letters of Chas. B. Meyer and C. M. Depew, relative to the complaint against the Newburgh, Dutchess and Connecticut Railroad Company. Ordered, that the letter of C. M. Depew be sent to Newburgh, Dutchess and Connecticut Railroad Company, and as to C. B. Meyer and Frank Eno, write that the New York Central has announced its willingness to comply with the recommendation of a thirty-five cent rate, and that the matter of the division as between the Newburgh, Dutchess and Connecticut and New York Central and Hudson River Railroad Companies is still pending.

Letters of the Grand Trunk Railway and the Lake Champlain and Ogdensburgh Railroad Companies as to station facilities at Rouse's Point. Ordered filed.

Letter of J. F. Maynard, of Utica and Black River Railroad Company. Referred to Secretary to write concerning decision.

The Secretary reported on the Matter of the Delaware and Hudson Canal Company crossings in the village of Cobleskill, that there were seven crossings within the corporation limits, four of which were properly farm crossings, and three public crossings; that of the three public crossings, two—one at the western part of the village, and the Grand street crossing—can be amply protected by the stationing of a flagman thereat, and that as to this, the complainant, the village, has the remedy in its own hands. As to the other—known as the Widow Lawyer's crossing—at the eastern end of the village, three-quarters of a mile from the station, he reported it as exceedingly dangerous, and that a flagman or gate would not, by reason of the conformation of the adjacent land, be ample protection. Ordered, that the Secretary write the Delaware and Hudson Canal Company as follows:

The Board has made an inspection of the crossings of the Delaware and Hudson Canal Company, at the village of Cobleskill, Schoharie county, and deems the one in the eastern part of the village, about three-quarters of a mile from Cobleskill station, known as the "Widow Lawyer's" crossing, to be dangerous and in need of protection. Owing to the peculiarities of the grade and the obstruction of the view, the Board cannot see that a flagman or gates would be adequate protection, and, therefore, suggests that the company should test the efficacy of a bell rung at the crossing by electricity, operated at a point fifteen hundred feet east of the crossing by the passage of a train bound westward, and to continue ringing until after the westward-bound train has passed the crossing—a device similar to that in process of erection by the New York, Ontario and Western Railway Company, at the Seneca turnpike. And the Board further suggests that a sign-board shall be erected over the turnpike or public way, on the north side of the track, at a point one hundred and twenty-five feet from the rails at the crossing, which shall bear the words conspicuously, "Look out for the cars when the bell is ringing at the crossing."

Letter of Robert W. Deforest laid over until the next meeting.

The report of the Accountant on the Sixth Avenue Railroad Company was presented. Laid over until next meeting.

The Board adjourned until Monday, October 21, at 3 P. M.

WILLIAM C. HUDSON,
Secretary.

OCTOBER 21, 1884.

The Board met pursuant to rule. Present—Commissioners Kernan and Rogers.

The minutes were read and approved.

The Secretary submitted as unfinished business the following:

Letter of the New York, West Shore and Buffalo Railway Company relative to the Klock and Merrian crossings. Usual course; the Board to inspect the locality.

Letter of Fred. F. Chambers, secretary of the Syracuse, Binghamton and New York Railroad Company, relative to the A. B. Benham complaint. Ordered to lie over until the 27th.

Letter of DeWitt C. Littlejohn. Ordered, that the Secretary write that the Board is not prepared to recommend any coupler at present; that the couplers most in use are the Miller and to some extent the Jauney.

Letter of C. H. Robinson relative to couplers. Ordered, that a copy of the safety act be sent.

New York, Ontario and Western Railway Company relative to the complaint of Bunnell & Moon. Filed with the papers of the cases.

Letter of C. M. Depew relative to the Utica depot and Nelliston bridge. Ordered, that the hearing on the citation be postponed until November 11.

Petition of city of Kingston. Ordered, that the city of Kingston be sent the safety act, and it be asked to notify the Board if it fails to obtain relief, and why, under the act.

By Commissioner Kernan:

Resolved, In all cases of complaint as to unprotected grade crossings, hereafter the usual course shall be to notify the complainants of the safety act, and ask them to notify the Board what, if any, relief was obtained under the provisions of the act. Adopted.

Letter of Utica, Clinton and Binghamton Railroad Company. Ordered, that the answer of the company be sent to the complainants and that they be asked to inform the Board whether the steps that have been taken and are proposed to be taken, to meet the recommendations of the Board, are satisfactory, and that, in the meantime, the hearing to which the road was cited Oct. 21st, be postponed until the third Tuesday of November, and that the road be so notified, and that at the adjourned day the Board will notify the road whether further appearance shall be necessary; if so, it will then fix the time.

Letter of George E. Merchant. Ordered usual course, and that the complainant be asked to notify the Board after the new schedule has been adopted, whether it furnishes the accommodations desired.

Letter of the Utica and Black River Railroad Company, relative to the recommendations of the Board. Laid over until next meeting.

Letter of the Rome, Watertown and Ogdensburgh Railroad Company. Laid over until next meeting.

The papers in the matter of the Van Vorst and Houck crossings at Glenville. Ordered, that the Secretary recite the facts as they appear in the papers and send a copy of the safety act, with the request to inform the Board what, if any, relief has been obtained under its provisions.

Papers in the Fairport crossing matter. Ordered, that the Board inspect the crossing on return from the West Shore inspection.

The Accountant's report in the matter of the Sixth Avenue road. Referred to Commissioner Kernan.

Letter of James D. Stevens. Ordered, that the Secretary write that the Board cannot act on a complaint so indefinite; that if he will make a complaint specifying dates and names and offenses, it will consider it.

The delinquency of the New York and Sea Beach, the Lackawanna and Pittsburg, the New Jersey and New York, and the Long Island and Newtown Railroad Companies, in not sending quarterly reports, was laid before the Board. Ordered, that the Accountant write that if the reports are not filed within ten days, the fact will be reported to the lawful authorities to take summary action.

Commissioner Rogers reported that he had examined all the accident reports to date, and caused the necessary letters to be written. Also, that he had examined the bridge strain sheets and caused the necessary action to be taken.

Ordered, that the Secretary write to the Massachusetts Railroad Commissioners as to the results of the tests of couplers and the conclusions arrived at at their exhibition.

Ordered, that the date of the 28th of October be set down for the inspection of the New York, West Shore and Buffalo Railway Company, by the Board, and that the Secretary write to have the facilities for such inspection at the Delaware and Hudson Canal Company's depot, Albany, on that date, 7:30 A. M., and to notify the Board by telegraph.

By Commissioner Kernan:

Resolved, That the Secretary be authorized to enter into a contract, as acting for the Board, with Weed, Parsons & Co., for the printing of the annual report for the year ending September 30, 1884, according to the bid of that firm made and opened October 20. Adopted.

By Commissioner Kernan:

Resolved, That a digest of the quarterly reports for the year ending September 30, 1884, be incorporated in the second volume of the annual report. Adopted.

The Board adjourned until Monday, October 27, 8 P. M., 1884.

WILLIAM C. HUDSON,
Secretary.

OCTOBER 27, 1884.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and corrected, to the extent of inserting the fact that on the 21st hearings were had in the matters of George Q. Moon & Co.; John B. Russell, and K. E. Bunnell against the New York, Ontario and Western Railway Company, in which George Q. Moon appeared for George Q. Moon & Co., John D. Russell, for himself, and C. R. Hall, attorney, for K. E. Bunnell, and J. B. Kerr and J. C. Anderson for the New York, Ontario and Western Railway Company; and in the matter of A. B. Benham, Mr. Marshall appeared for the Syracuse, Binghamton and New York Railroad Company. B. Thomas appeared for the New York, Lake Erie and Western Railroad Company in the Chenango street crossing matter.

As corrected, the minutes were approved.

The Secretary submitted, as unfinished business, the following:

Telegram of J. D. Layng (New York, West Shore and Buffalo Railway Company), relative to inspection by Board. Ordered filed.

Letter of town clerk of Riga and letter of Betteridge and others relative to alleged dangerous crossing in town of Riga, Monroe county. Referred to Commissioners Kernan and Rogers.

Letter of B. G. Wilson relative to delay of fire department at Chenango street crossing. Ordered, that a copy of letter be sent to New York, Lake Erie and Western Railroad Company.

Letter of J. R. Maxwell (Long Island Railroad Company). Ordered filed.

Letter of Theodore Houston (New York, West Shore and Buffalo Railway Company), relative to Haverstraw station facilities. Ordered that Secretary write the New York, Ontario and Western Railway Company.

Letter of H. L. Morrill (general manager of the Boston, Hoosac Tunnel and Western Railroad Company), relative to safety act. Ordered filed.

Letter of C. L. Kimball (Newburgh, Dutchess and Connecticut Railroad Company), relative to milk transportation. Ordered, that the Secretary send copies of the letters of C. M. Depew and C. L. Kimball to the complainants, and ask if they still desired to present to the Board reasons why the Board should grant a rehearing, and that the same will be considered by the Board if communicated in writing within ten days.

Letter of O. H. P. Cornell, relative to safety gates. Ordered filed.

Letter of Wm. H. Crafts, clerk Board of Massachusetts Railroad Commissioners. Ordered filed.

Letter of L. L. Bunting. Ordered laid over until next meeting.

The Secretary, under instructions of the Board, submitted the letters of Utica and Black River Railroad Company, laid over at last meeting. Ordered, that the Secretary send a letter, as by the draft submitted by Commissioner Kernan, as follows:

ALBANY, October 27, 1884.

JOHN THORN, Esq., *President*:

SIR—In reply to yours and the letter of J. F. Maynard, Esq., vice-president, of the 20th inst., I am directed to say that in answer to the letter of J. F. Maynard, Esq., vice-president, of the 7th, the Board deemed nothing more necessary to make his understanding of the decision clear than to correct his wrong quotation of the language of the recommendation of the Board. Mr. Maynard further inquires upon what principle the recommendation as to the rate on cheese from Lowville to Utica is based. In reply to this inquiry the Board refers to the decision itself for the information. You will there ascertain that upon the facts presented, and for the reasons noted, the Board concluded that the Lowville cheese rate ought to be no higher than twenty cents, and the Watertown winter rate no higher than twenty-five cents, and that the Lowville rate shall be reduced below twenty cents when the Watertown winter rate shall be reduced below twenty-five cents, so that the rate at Lowville shall hereafter stand in relation to the Watertown winter rate as twenty days to twenty-five. It was not the intention of the Board to hold that if the rate from Watertown to Utica is raised above twenty-five cents, that the Lowville rate can be increased above twenty cents, but in any such event the rate shall not be over twenty cents from Lowville to Utica. The Board found the Watertown rate of twenty-five cents to be already sufficiently high for the services rendered.

On question of the adoption of the draft, Commissioner O'Donnell moved to amend, by striking out "winter" where it occurs before the word "rate." Lost.

On the question of adoption.

Ayes—Commissioners Kernan and O'Donnell. Commissioner Rogers not voting.

The letter of Fred. F. Chambers, relative to the A. B. Benham complaint. Ordered, that Secretary insert in the minutes, that Mr. Niver, of the Syracuse, Binghamton and New York Railroad Company, appeared by counsel on the 21st inst., and agreed to carry out the recommendations of the Board; and further ordered, that the Secretary write to Mr. Benham, to inform the Board whether the matter is disposed of.

Letter and application of the Rome, Watertown and Ogdensburg Railroad Company.

Commissioner O'Donnell moved that the Secretary inform the Rome, Watertown and Ogdensburg Railroad Company that the Board will consent to the request of the company, on condition that the company will agree to build, restore and operate the abandoned portion of its road within one year, and the further condition that complainants agree thereto, and that upon receiving its answer within ten days the Board will, if necessary, communicate with the complainants.

The Secretary submitted the bill of Thos. J. Cowell, as approved by him. Ordered approved by the Board.

Commissioner Rogers submitted a report in the matter of John B. Russell v. New York, Ontario and Western Railway Company. Ordered printed.

Also in the matter of George Q. Moon & Co. v. New York, Ontario and Western Railway Company. Ordered printed.

Commissioner Rogers asked leave to have printed report in the matter of K. E. Bunnell v. New York, Ontario and Western Railway Company. Granted.

Commissioner Kernan moved that when the Board adjourn, it adjourn until November 11, at 10 A. M. Carried.

The Accountant's report that the New York and Sea Beach Railroad Company and Long Island City and Newtown Railroad Company were delinquent in not filing quarterly reports for the year ending June 30, 1884, as required, was submitted. Ordered, that they be subpoenaed to appear before the Board November 11.

Also, that the Buffalo, New York and Philadelphia Railroad Company, delinquent in not filing quarterly report for the quarter ending June 30, 1884. Ordered, that they be notified to file report within ten days or the Board will take necessary measures to secure compliance with its requirements.

Also, that under the resolution of May 27, 1884, instructing the Accountant to inspect the books of the New Brighton and Onondaga Valley, Syracuse and Onondaga, Genesee and Water street, Syracuse and Geddes Railroad Companies of Syracuse, and report to the Board why they did not make reports required by law and the rules of this Board, he had had interviews and correspondence, and that quarterly reports for the quarter ending June 30, 1884, in proper form had been received, and had ascertained that all other reports would be made as required.

The letter from Ninth Avenue Railroad Company, New York, stating that it paid \$2,000 quarterly for rent of stables and had heretofore reported it under deductions from income, and asking whether in future it ought not to be charged to operating expenses. Ordered, that it continue to report it under deductions.

The Secretary submitted letter of Inspector asking whether he should proceed with making reports of inspection or signal report first. Ordered to proceed with inspection reports.

Adjourned.

WILLIAM C. HUDSON,
Secretary.

NOVEMBER 11, 1884.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted as unfinished business the following:

Letter of George L. Pratt relative to his complaint as to leakage of wine kegs. Ordered, that the Secretary write the New York Central and Hudson River Railroad Company that if no answer is made within ten days by the road the Board will be obliged to subpoena officers to show why no answer is made.

George Q. Moon & Co., a complaint of rates as between Norwich and Hampden. Usual course.

A. H. Mann, relative to the quarterly report of the New York and Sea Beach Railroad Company. Hearing postponed until 26th. Ordered, that the Accountant return the report and affidavit after copying it, and that Mr. Mann be directed to furnish a balance sheet verified in the form prescribed, and that he be informed that the Board declined to receive his affidavit as a part of the report.

Letter of Jesse Johnson relative to the quarterly report of the Long Island City and Newtown Railroad Company. Ordered filed.

Letter of J. F. Maynard (Utica and Black River Railroad Company) relative to the decision of the Board.

Commissioner Kernan offered the following:

Resolved, That the Board regards the case of A. D. and R. D. Foot et al. v. The Utica and Black River Railroad Company as having been closed on September 26th, when the decision of the Board was transmitted to the road, and that the only question is whether the company will or will not comply with the recommendations, and that if the company refuses or neglects to comply with the recommendations of the Board on or before November 26, 1884, and shall not on that day, at 10 A. M., at the Capitol, Albany, or previous thereto, in writing, satisfy the Board that no action is required to be taken by it, the Board will present the facts to the Attorney-General for his consideration and action and subsequently to the Legislature.

Commissioner Rogers moved to amend so that the resolution shall only apply to the second recommendation of the decision of the Board, as follows:

Second, "That the road shall not hereafter impose, as a condition for special rates of freight, that the party accepting such contract shall ship by no other route or canal." Lost.

Aye — Commissioner Rogers.

Nays — Commissioners Kernan and O'Donnell.

The question then came on Commissioner Kernan's resolution. Adopted.

Ayes — Commissioners Kernan and O'Donnell.

Nay — Commissioner Rogers.

Letter of Charles Parsons, president Rome, Watertown and Ogdensburg Railroad Company, declining to accept an extension of time in complying with the recommendations of the Board upon the conditions suggested.

Commissioner Kernan offered the following:

WHEREAS, This Board heretofore, on April 21, 1884, made a decision in the case of the town of Sandy Creek against the Rome, Watertown and Ogdensburg Railroad Company; and

WHEREAS, The Rome, Watertown and Ogdensburgh Railroad Company continues to neglect to comply with the laws of the State and the provisions of chapter 140, Laws of 1850, as amended, and with the recommendations of this Board, and usurps authority conferred by no act or law of this State, as in said decision pointed out; therefore,

Resolved, That the Secretary be directed to transmit to the Attorney-General a certified copy of said decision and of this resolution, as provided in section 5, chapter 353, Laws of 1883, that he may take such proceedings thereon as may be necessary for the protection of the public interest.

Commissioner O'Donnell moved as an amendment the following :

Resolved, That on November 26th, at 12 o'clock, the Board will vote on this motion, unless said company shall on that date notify the Board that it has accepted its decision and recommendations in the case, and that a copy of this resolution be sent to said company. Lost.

Aye — Commissioner O'Donnell.

Nays — Commissioners Kernan and Rogers.

The question was then on the original resolution. Adopted.

Ayes — Commissioners Kernan, Rogers and O'Donnell.

Mr. C. M. Depew, second vice-president and general counsel, and Mr. J. M. Toucey, general superintendent New York Central and Hudson River Railroad Company, appeared in the matters of the Utica depot and the Nellistown bridge, reporting the work had been begun in accordance with the recommendations of the Board, and in the Utica matter in accordance with the modified recommendations.

Patrick J. Gleason appeared in obedience to a subpoena, for failure to return the quarterly report of the Long Island City and Newtown Railroad Company, sent back for correction. He reported that he had supposed it had been returned, and had given instructions to have it corrected as required, and that it be returned, which would be done. He was therefore dismissed.

Letter of E. F. Winslow (president New York, Ontario and Western Railway Company), relative to the Haverstraw station. Ordered, that the Secretary write that the matter is laid over until November 26, 1884, when the Board will take action by sending the facts in the case to the Attorney-General, unless in the meantime word is received from the company that it will comply with the recommendation of the Board, or, unless the company on that day shall satisfy the Board that no action is required to be taken by it.

Letter of H. J. Jewett (president New York, Lake Erie and Western Railroad Company), accompanied by letter of B. Thomas to him, relative to the Hamburg station. Ordered, that same order as in the Haverstraw matter obtain.

Letter of Theodore Camp, secretary Broadway Railroad Company, with certificates and affidavits of company in the matter of an increase of the capital stock. Ordered, that the Secretary send to the company for a verified statement of its financial condition, the amount of capital stock paid in, amount expended and for what purpose, bonded indebtedness, amount of bonds issued, amount realized therefrom, amount expended, and to what purpose it is proposed to apply the increased capital stock, and the estimate, if any made, of the cost of road and a copy of the charter.

Answers of the New York, Ontario and Western Railway Company, by J. B. Kerr, in the Matters of George Q. Moon & Co., J. B. Russell and K. E. Bunnell v. Said Company. Ordered filed.

Letter of B. Thomas, general superintendent New York, Lake Erie and Western Railroad Company, relative to the Chenango street crossing at Binghamton. Ordered, that the Secretary write that the recommendation of the Board was that the crossing should be relieved from the switching of cars across it, either for the purpose of delivering to the Delaware and Hudson Canal Company, or for any other purpose. If what they suggest accomplishes the result desired, then it will be satisfactory, and will be approved; if not, then it will not be satisfactory.

Letter of T. L. Banting. Ordered filed. Ordered, also, that Secretary inform him of action of Board in the matter.

Edward Young, of counsel for Delaware and Hudson Canal Company, was heard in the matter of the Cobleskill crossing. Ordered, that the Board examine the crossing on Thursday morning.

Commissioner Rogers called up his report on the case of John B. Russell. Adopted and ordered issued.

Recess was taken until November 12th, at 10 A. M.

AFTER RECESS, NOVEMBER 12, 1884.

Board reconvened.

Commissioner Rogers called up his report on the case of George Q. Moon & Co. Adopted and ordered issued.

Commissioner Rogers called up his report on the case of K. E. Bunnell. Laid over for one week.

Commissioner Rogers reported that he had examined all the reports on accidents, bridge strain reports and those of the Inspector up to date, and had caused the necessary letters to be written. Accepted.

Also, submitted the letter of J. Wales, relative to alleged discrimination on the New York, Ontario and Western Railway. Ordered, that the Secretary write that if a specific complaint is made, the Board will consider it.

Commissioner Kernan reported on the case of the town of Riga as to crossing. Adopted and ordered issued.

Also, in the matter of Burbank crossing. Ordered, that Secretary send the letter, draft of which was submitted by Commissioner Kernan.

Also, Commissioner Kernan submitted a report in the matter of the application for an increase of capital stock of Sixth Avenue Railroad Company. Ordered printed.

Also, a report in the matter of the Rome, Watertown and Ogdensburg Railroad Company. Ordered printed.

The Board then went into executive session on the annual report.

In open session, the annual report was made a special order for Tuesday, November 18th.

Commissioner O'Donnell offered the following resolution:

Resolved, That in the opinion of this Board, the interest of the public traveling over the Utica and Black River Railroad Company, demand of said road a proper depot at Utica, or covered way to protect the public patronizing said road from storms and inclement weather, and that a copy of this resolution be sent to the company.

Commissioner Rogers moved that it be laid over for a week. Carried.

Ayes — Commissioners Rogers and Kernan.

Nay — Commissioner O'Donnell.

Commissioner O'Donnell offered the following:

Resolved, That the Utica and Black River Railroad Company be notified to show cause on the 26th inst. why a covered depot or suitable sheds for the protection of passengers at Utica shall not be provided in a reasonable time by such railroad company or otherwise, and that a copy thereof be sent to the company.

Commissioner Rogers moved that the matter be laid over one week. Carried.

Ayes — Commissioners Kernan and Rogers.

Nay — Commissioner O'Donnell.

Commissioner O'Donnell offered the following:

Resolved, That the Secretary be directed to write to the mayor of Schenectady as to what steps, if any, have been taken by the city or the New York Central R. R. Co. to erect a suitable railroad depot in said city. Adopted.

The Board adjourned until November 18th, at 10 A. M.

WILLIAM C. HUDSON,
Secretary.

NOVEMBER 18, 1884.

The Board met pursuant to adjournment. All present.

The minutes were read and approved.

The Secretary submitted as unfinished business:

Letter of Charles Haines, alleging extortion upon the part of the New York Central and Hudson River Railroad Company. Ordered usual course.

Letter of J. Wales, alleging discrimination upon the part of the New York, Ontario and Western Railway Company. Ordered usual course.

Letter of J. F. Maynard relative to the decision of the Utica and Black River Railroad Company.

Moved by Commissioner O'Donnell that the Secretary reply that the Board has no further communication to make upon this subject, than to say that it will, on the 26th instant, consider the question of sending the facts in the case to the Attorney-General, and that the present application for a postponement beyond the 26th is denied. Carried.

Letter of Wager Swayne. Ordered filed and request granted.

Commissioner O'Donnell called up the following resolution, offered November 11, by him:

Resolved, That, in the opinion of this Board, the interest of the public traveling over the Utica and Black River railroad demand of said road a proper depot at Utica or covered way to protect the public patronizing said road from stormy and inclement weather, and that a copy of this resolution be sent to the company.

Commissioner Kernan moved that it lie on the table until the completion of the depot and sheds at Utica by the New York Central and Hudson River Railroad Company. Carried.

Ayes — Commissioners Kernan and Rogers.

Nay — Commissioner O'Donnell.

Commissioner O'Donnell called up a resolution offered by him November 11, as follows:

Resolved, That the Utica and Black River Railroad Company be notified to show cause on the 26th instant why a covered depot or suitable sheds for the protection of passengers at Utica shall not be provided in a reasonable time by such railroad company or otherwise, and that a copy thereof be sent to the company.

Commissioner Kernan moved that the resolution lie on the table until the completion of the depot at Utica by the New York Central and Hudson River Railroad Company. Carried.

Ayes — Commissioners Kernan and Rogers.

Nays — Commissioner O'Donnell.

The Secretary submitted Commissioner Rogers' report on the case of K. E. Bunnell v. New York, Ontario and Western Railway Company.

Commissioner Rogers moved that it be made the decision of the Board.

Aye — Commissioner Rogers.

Nays — Commissioners Kernan and O'Donnell.

Ordered, that it be laid over for further consideration.

The Secretary submitted the report of Commissioner Kernan on the application of the Sixth Avenue Railroad Company for an increase of capital stock.

On motion of Commissioner Kernan it was adopted as the decision of the Board, and ordered issued, with the further order that the Sixth Avenue Railroad Company show cause, on December 2d, at 10 A. M., at the Capitol, Albany, why the facts in relation to the issuing of \$750,000 scrip should not be reported to the Attorney-General under section 5, chapter 853, Laws of 1882, as a violation of the laws of this State and a usurpation of authority not by its act of incorporation granted. Carried.

Also, Commissioner Kernan's report on the matter of Kemp v. Rome, Watertown and Ogdensburgh Railroad Company. Laid over for one week.

Commissioner Rogers reported on the Cobleskill crossing (Widow Lawyer's) that either an electric bell, as already suggested to the Board, be placed there, or that a flagman should be stationed at the crossing; that the highway on the north side of the track should be widened sufficiently to admit a horse and wagon to be turned, at least ten feet more than it is at present. Accepted, and ordered issued as a decision of the Board.

The Accountant submitted the quarterly report of the Dry Dock, East Broadway and Battery Railroad Company, New York city, showing issue of certificates of indebtedness.

Commissioner O'Donnell moved that the Secretary write to the company and ask by what authority of law it has issued the certificates of indebtedness noted in this report. Carried.

Also, the quarterly report of the Eighth Avenue Railroad Company, showing a similar issue.

Commissioner O'Donnell moved that the Secretary write to the company and ask by what authority of law it has issued the certificates of indebtedness noted in the report. Carried.

Also, the quarterly report of the New Jersey and New York Railroad Company.

Commissioner Kernan moved that the Accountant be instructed to reply that the Board requires not the ascertained percentages as to the part of the road in State of New York, but of the whole operation, as is required of other roads partly in and partly out of State of New York, and that there is no objection to its appending the percentages of New York and New Jersey roads to the bottom of the report as a note. Carried.

Also, the letter of the Mann Boudoir Car Company, showing it was operated partly in New York State. Ordered, that quarterly reports be required of them.

The Board went into executive session on the annual report. In open session the report was adopted.

Commissioner Kernan moved that Commissioner Rogers be a committee of one to draft a circular on filing of annual report of railroad companies by the 20th of December, or before. Carried.

The Board adjourned until November 19th, 10 A. M.

WILLIAM C. HUDSON,
Secretary.

NOVEMBER 26, 1884.

The Board met pursuant to adjournment. All present.

The minutes were read and approved.

A. H. Mann appeared in answer to the subpoena issued in the matter of the failure of the New York and Sea Beach Railroad Company to file its quarterly report for the quarter ending June 30, 1884, and was heard.

A. M. Beardsley, of counsel, and J. F. Maynard, vice-president and general manager Utica and Black River Railroad Company, appeared in obedience to a citation to show cause why the facts in the case of A. D. and R. D. Foot v. Utica and Black River Railroad Company should not be presented to the Attorney-General, and were heard.

The Secretary submitted as unfinished business:

The complaint of the Brooklyn, Bath and Coney Island Railroad Company. Usual course.

Copy of letter to Moon & Company from New York, Ontario and Western Railway Company forwarded to the Commissioners for information. Ordered, that it be compared with the tariff sheet and the recommendation.

Walter Katta, chief engineer New York, West Shore and Buffalo Railway Company. Ordered, that Secretary write Mr. Katta that, if he desires plans to be approved, he send them to the Board.

Letter of C. M. Depew (New York Central and Hudson River Railroad Company), relative to the complaint of Mr. Pratt. Ordered, that a copy be transmitted to Mr. Pratt.

Letter of E. D. Worcester, relative to Dunkirk, Allegheny Valley and Pittsburg Railroad Company. Ordered filed.

Letter of Frank Curtis, president Sixth Avenue Railroad Company. Ordered filed.

Letter of New York, West Shore and Buffalo Railway Company, relative to route to Niagara Falls. Ordered filed.

Letter of E. M. Shepard relative to Forestry Commission and damages by fire from locomotive sparks. Ordered, that Secretary gather the information desired.

Letter of John King (New York, Lake Erie and Western Railroad Company). Usual course.

R. M. Olyphant (Delaware and Hudson Canal Company). Ordered filed.

Letter of W. J. Heacock, announcing compliance of Fonda, Johnstown and Gloversville Railroad Company with recommendation. Ordered filed.

Letter of E. D. Worcester, relative to the New York, Chicago and St. Louis Railroad Company crossing, south of Dunkirk. Ordered, that it be sent to T. W. Spencer, Inspector, for answer.

Letter of Mayor Young, of Schenectady, relative to the depot at that place. Ordered, that Secretary send a copy of the letter to the New York Central and Hudson River Railroad Company and ask what, if any thing, is being done to build a depot at that place.

Petitions relative to railroad crossing at Schaghticoke, Rensselaer county. Usual course.

Commissioner Rogers reported to the Board that Mr. A. H. Mann had appeared on behalf of the New York and Sea Beach Railway Company, in answer to subpoena issued by the Board to give testimony touching the failure of the company to file a quarterly report with the Board for the quarter ending June 30, 1884, and stated that the balance for that quarter could not be made, except with great difficulty, inasmuch as the company had neglected to make the balance sheet at that date; that the company had now an Accountant and that hereafter the quarterly reports would be made, and that he would have appeared before the Board before except for prior engagements.

Commissioner Rogers moved that the New York and Sea Beach Railroad Company be excused from making a report for the quarter ending June 30, 1884.

Ayes — Commissioners Rogers and Kernan.

Not voting — Commissioner O'Donnell.

Commissioner Rogers reported a complaint of insufficient accommodations on train No. 12 for pay passengers. Ordered, that Secretary convey the facts of the complaint to the company.

The Secretary submitted the failure of the New York, Lake Erie and Western Railroad Company, and the New York, Ontario and Western Railway Company to respond to notifications to appear on this date.

Commissioner Kernan offered the following:

WHEREAS, The Board heretofore on September 23, 1884, made a recommendation in the matter of the petition of citizens of Harverstraw, Rockland county, for a station on the New York, West Shore and Buffalo railroad, nearer to the village, a certified copy of which is hereto attached and forms a part hereof; and

WHEREAS, The said road has neglected to comply with such recommendation, or to make the improvements and changes therein recommended, although a reasonable time has long since elapsed; and

WHEREAS, Said road, after a full opportunity for a full hearing thereon, has not satisfied the Board that no action is required to be taken by it, therefore

Resolved, That the Secretary be directed to transmit the said decision and the facts in the case to the Attorney-General for his consideration and action, and that a copy of this resolution be transmitted to the company and the complainants. Carried.

The Secretary submitted the report in the Kemp v. Rome, Watertown and Ogdensburg Railroad Company matter. Laid over for a week.

The Secretary submitted the Bunnell matter. Laid over for a week.

The Eighth Avenue and Dry Dock, East Broadway and Battery Railroad cases. Laid over for one week.

The Accountant submitted the quarterly report of the Long Island City and Newtown Railroad Company as unsatisfactory. Ordered, that the Accountant proceed to Long Island and correct at his own discretion.

Board adjourned until December 2d, 10 A. M.

WILLIAM C. HUDSON,
Secretary.

DECEMBER 3, 1884.

The Board met pursuant to adjournment. All present.
The minutes of the last meeting were read and approved.

APPEARANCES.

Messrs. Burrill, of counsel, and Frank Curtis, president Sixth Avenue Railroad Company, appeared in the matter of the application for an increase of capital stock and were heard.

Mr. Young, of counsel, appeared for the Delaware and Hudson Canal Company in the matter of the Cobleskill (Widow Lawyer's) crossing. Postponed until December 16th, in order to permit negotiations between company and town.

The Secretary submitted as unfinished business the following:

The matter of the report in Kemp v. Rome, Watertown and Ogdensburgh Railroad Company. Laid over. Adopted and ordered issued.

The matter of the Hamburg station on the New York, Lake Erie and Western railroad. Laid over.

Commissioner Rogers offered the following:

Resolved, That the Board recommend that the New York, Lake Erie and Western Railroad Company construct a suitable depot at Hamburg, Erie county, N. Y., within sixty days. Carried.

The matter of the Long Island milk case. Laid over. Ordered, That the Long Island Railroad Company be cited to show cause why, in the failure of the company to comply with the recommendations of the Board in the matter of S. & J. W. Post et al. v. Long Island Railroad Company, the facts in the case should not be presented to the Attorney-General for his consideration and action, on 16th inst., at 10 A. M.

Letter of Walter Katte, chief engineer New York, West Shore and Buffalo Railroad Company. Ordered filed.

Letter of J. H. Bowron, relative to complaint of citizens of Rouse's Point v. Delaware and Hudson Canal Company, Ogdensburgh and Lake Champlain and other railroad companies. Referred to Commissioner Rogers with power to investigate and report.

Letter of Inspector relative to the West Shore Railroad Company's right of way to Niagara Falls. Ordered filed.

Letter of the Inspector relative to the New York, Chicago and St. Louis crossing on the Dunkirk, Allegheny Valley and Pittsburg railroad. Ordered filed.

Commissioner Rogers reported that he had investigated the matter (Mr. Thayer, superintendent Dunkirk, Allegheny Valley and Pittsburg railroad, being before him) to which the letter related, and had found that the railroad trains do stop as required by statute.

Letter of E. H. Freeman, city clerk of Binghamton, relative to the matter of the Chenango street crossing. Referred to Commissioner Rogers with instructions to the Inspector to proceed to Binghamton to make a re-inspection as soon as practicable.

Letter of E. F. Winslow relative to the recommendation in the matter of Russell v. New York, Ontario and Western Railway Company. Ordered filed.

Letter of E. F. Winslow relative to complaint No. 2, of George Q. Moon & Company. Usual course.

Letter of E. F. Winslow relative to the complaint of J. Wales v. New York, Ontario and Western Railway Company. Usual course.

Letter of Daniel Robinson relative to the Schaghticoke crossing in Rensselaer county. Usual course.

REPORTS.

Commissioner Rogers reported that Mr. Thayer, superintendent of Dunkirk, Allegheny Valley and Pittsburg Railroad Company, and attorney for the company, appeared on notice as to defective bridge, and showed that the place as filed, was defective, in that it showed but three rods where there were five, and two where there were three, and satisfied him that the bridge was safe, if certain strengthening was done, which was in progress.

By Commissioner Kernan, the following:

WHEREAS, After reading and filing the papers filed by the Sixth Avenue Railroad Company, requesting that the decision of the Board denying the application of that company to increase its capital stock, may be opened, and that the application be reconsidered and that the road be permitted to present further evidence in support of its application.

Resolved, That the request be granted. Carried.

By Commissioner Kernan, the following:

Resolved, That the Accountant be directed to proceed as soon as he can do so, with a further and complete examination of its construction account as now presented and claimed by the Sixth Avenue Railroad Company, and of all books, vouchers and evidence to be produced in connection therewith, and report thereon to this Board. Laid over for one week.

The Accountant reported that he had examined the matter of the failure of Long Island City and Newtown Railroad Company to make proper quarterly reports, and that it was

impossible, under the existing system employed by that company, and that the president thereof asked to be excused from further report and for permission to open his books as of date of the first of October. Ordered, that permission be granted and that the Accountant so inform the president of the company.

NEW BUSINESS.

The Secretary submitted petition of the residents of Hancock, Delaware county, v. New York, Ontario and Western Railway Company as to discrimination against Hancock. Ordered, the usual course.

Complaint of William Keeler, M. D., v. Rome, Watertown and Ogdensburgh Railroad Company, relative to the condition of the yard at Rome. Ordered, that the Secretary communicate the facts to the company and request reply.

The Board adjourned until Tuesday, December 9th, 10 A. M.

WILLIAM C. HUDSON,
Secretary.

DECEMBER 9, 1884.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business as follows:

Letter of E. D. Northrup relative to the compliance of the recommendations of the Board in the matter of insufficient train accommodations at Ellicottville, with suggestions as to coupling cars. Ordered filed, and that the Secretary write the Canadian Pacific Railroad Company as to system of coupling cars.

Letter of John King relative to Chenango street crossing at Binghamton. Ordered filed.

Letter of R. A. Vervalen. Ordered filed.

Blank forms of complaint and petition. Adopted. Ordered, that these blanks be sent out by the Secretary under the direction of the Board, or when requested by parties proposing to lodge complaints with Board.

Letter of Mr. Devendorf relative to Herkimer station. Ordered usual course.

Resolution relative to the examination of Sixth avenue books laid over from December 8. Laid over until the 18th.

REPORTS.

Commissioner Rogers reported on the matter of the complaint of citizens of Rouse's Point v. Delaware and Hudson Canal Company et al., referred to him, that the matter demanded personal inspection. Referred to Commissioner O'Donnell to hear at Rouse's Point, with the authority to employ a stenographer and with the order that the company be notified of the hearing at Rouse's Point December 18, 2 P. M.

Commissioner Kernan reported as to the inspection of the Brooklyn, Bath and Coney Island Railroad Company, as follows:

Brooklyn, Bath and Coney Island Railroad.

Owing to the condition in which this road was found upon May 28, 1884, and which will be found described in the report of that date, a second inspection was made on December 4, 1884.

The improvements urged upon the road May 28 have, to some extent, been adopted. The road-bed has been raised and filled in many places, rotten ties partially removed and replaced, and some changes for the better made in the cars. In other respects the condition of the road is substantially as it was in May last. Neither the road-bed, equipment nor stations are up to the standard of Long Island railroads, nor in such a condition as the public have a right to expect. The winter travel and business over the road is very light, and therefore the Board does not deem the defects noted such as to imperil public safety at present, but the Board strongly urges and recommends that before the opening of another summer season the defects pointed out in the report of May 28, 1884, be remedied. Accepted.

NEW BUSINESS.

Letter of H. S. Camblos, relative to the quarterly report of the Lake Shore and Michigan Southern Railroad Company. Referred to Mr. Thompson to report to the Board on the discrepancies pointed out.

The Accountant submitted a new form of quarterly report. Adopted.

The Secretary submitted letter of Austin Corbin, president Elmira, Cortland and Northern Railroad Company, as to war of rates. Usual course.

Also, the bills of the Argus Company for \$25 and \$14.85 as approved by him to the Board. Ordered approved.

Also, an anonymous letter as to Suspension Bridge station. Ordered, that Secretary send the information therein contained to the New York Central and Hudson River Railroad Company.

Commissioner O'Donnell offered the following :

Resolved. That hereafter at the hour designated for meetings of the Board, the Secretary shall call the roll, and thereon within five minutes of the time so fixed, if a quorum of the Board be present, it shall proceed to the consideration of the business of the Board. Carried.

The Board adjourned until 10:15 A. M., Tuesday, December 16, 1884.

WILLIAM C. HUDSON,
Secretary.

DECEMBER 16, 1884.

The Board met pursuant to rule.

The roll was called. Present—Commissioners Kernan and Rogers.

Telegram from Commissioner O'Donnell, stating he was detained in missing train at Utica; will arrive by next train.

The minutes were read and approved.

The Secretary submitted as unfinished business, the following:

Letter of W. C. McDowell, vice-president New York and Sea Beach Railway Company. Ordered usual course.

Papers, etc., filed by Burrill, Zabriskie & Burrill, counsel of the Sixth Avenue Railroad Company. Referred to Commissioner Kernan.

Letter of W. H. Haven, relative to his device to extinguish fires. Ordered filed.

Letter of W. C. Van Horne, vice-president Canadian Pacific Railroad Company. Ordered filed and usual course.

Letter of Geo. E. Merchant, Rochester and Ontario Belt Railroad Company. Filed with inspection papers of road.

Letter of E. F. Winslow, president New York, Ontario and Western Railway Company, answer to complaint of citizens of Hancock. Usual course.

Letter of G. L. Pratt, relative to claim for loss of wine. Ordered, that Secretary write New York Central and Hudson River Railroad Company that a letter of complainant informs the Board, that though the company has signified its willingness to settle the claim, the amount has not been received by the complainant. This neglect, in the opinion of the Board, goes far to justify the belief of shippers that no attention is paid by railroad companies to claims.

Letters of commissioners of highway, town of Schaghticoke, in answer to reply of road. Referred to Commissioner Rogers to examine the premises on Thursday, December 18, 1884.

Letter of John King, president New York, Lake Erie and Western Railroad Company. Ordered filed.

Letter of Herkimer, Newport and Poland Narrow Gauge Railway Company, relative to increase of capital stock. Ordered filed.

Resolution as to examination of Sixth Avenue Railroad Company's accounts. Laid over for one week.

Commissioner Rogers reported that Edwin Young, of counsel of Delaware and Hudson Canal Company, and C. D. Hammond, general superintendent of Albany and Susquehanna Division, had appeared in reference to the inspection of roads, and had satisfied him that, since the inspection was made, the defects pointed out had been remedied, and that he had modified the report to that end. Approved.

Commissioner Rogers submitted a report on the accident on the Rochester and Pittsburg Railroad. Laid over for one week.

Commissioner Kernan reported a decision in the matter of Foot et al. v. Utica and Black River Railroad Company. Ordered printed.

Austin Corbin and J. B. Maxwell, of Long Island Railroad Company, appeared in answer to citation to show cause why the facts in Long Island Milk case should not be turned over to the Attorney-General.

Adjourned.

WILLIAM C. HUDSON,
Secretary.

DECEMBER 28, 1884.

The Board met pursuant to adjournment. The Secretary called the roll. Present, Commissioners Kernan and O'Donnell.

Minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business :

Letter of C. L. Pratt announcing settlement of his claim. Ordered filed.

Letter of C. M. Depew, second vice-president New York Central and Hudson River Railroad Company, relative to the Schenectady depot.

Commissioner Kernan offered the following :

WHEREAS, The comfort and convenience of the public imperatively demand that the New York Central and Hudson River Railroad Company, and the Delaware and Hudson Canal Company shall provide suitable and convenient depot facilities at Schenectady, in the place and stead of the present unfit and inadequate depot there existing; and

WHEREAS, The acts passed by the Legislature in 1884 have failed to accomplish any results whatever, and have involved the city and the railroads in a dispute which will probably indefinitely prevent any improvement in depot facilities and accommodations from being provided by the railroads; therefore,

Resolved, That an act be recommended to be passed by the Legislature in accordance with the original report of this Board in the matter requiring said railroads to build and provide suitable and convenient depot facilities east of State street in Schenectady, unless on or prior to January 7, 1885, said railroads or city shall, in writing, satisfy the Board that such an act would not be for the public interest and welfare. Adopted.

Letter of C. M. Depew, second vice-president New York Central and Hudson River Railroad Company, relative to complaint of Mr. Haines of Bedford station. Ordered usual course.

Letter of H. G. Young, relative to Cobleskill crossing. Postponed until second Wednesday in January, 1885.

Letter of Mr. Welch, relative to complaint of citizens of Hancock v. New York, Ontario and Western Railroad Company. Ordered filed and case closed.

Letter of Walter Katta, chief engineer of New York, West Shore and Buffalo Railway Company, with accompanying plan of gong signal. Referred to Commissioner Rogers.

Petition by C. B. Meyer, relative to Long Island milk rates. Ordered filed.

Circular from Massachusetts Commissioners relative to automatic couplers. Ordered filed.

Application of Thirty-fourth Street Railway Company for increase of capital stock, and asking Board to designate a paper in which to advertise the stockholders' meeting. Ordered filed, and that Secretary designate the paper.

Resolution providing for examination of Sixth Avenue railroad accounts. Laid over until next meeting.

The Accountant submitted to the Board the request of E. D. Worcester to return the annual report of the Lake Shore and Michigan Southern Railroad Company. Ordered, that the Secretary write that it will too seriously embarrass the Board to return the report, but that he may prepare any proper explanation and send it, designating the place where it should be attached, when it will be so attached.

The Accountant submitted the matter of the new form of quarterly reports, asking authority to inform roads that the new form must be used. Granted.

Also, the matter of delinquent companies in making annual reports, asking authority to send, in name of Chairman of Board, notice that they must be filed under penalties. Granted.

Also, the matter of the annual report of the Rome, Watertown and Ogdensburgh Railroad Company, which had charged special interest, etc., to cost of construction.

Commissioner O'Donnell moved that the Accountant write the company to explain to the Board why these charges are made. Carried.

Commissioner O'Donnell moved that Accountant be instructed to insert a foot-note in the annual report that the items are under investigation by the Board. Carried.

Also, annual report of Metropolitan Elevated Railway Company, where issue of bonds is charged to cost of construction.

Commissioner O'Donnell moved that the Accountant write for explanation of the items so charged. Carried.

Commissioner O'Donnell moved that the Accountant insert a foot-note in the annual report, that the item is under investigation. Carried.

Commissioner Kernan moved that the Accountant insert a foot-note in all cases where the cost of road has been ascertained by Board, referring to same. Carried.

Commissioner O'Donnell moved that hereafter when companies are cited for failure to comply with recommendations of Board, to show cause why the facts in the case should not be presented to the Attorney-General for his consideration and action, the complainants shall be notified of such hearing. Laid over until next meeting.

Commissioner O'Donnell reported in the matter of Rouse's Point, referred to him, as follows: He had held a public hearing Thursday, December 18, at Rouse's Point, as ordered by the Board, to hear the matter of complaint of Trustees and Citizens of the village of Rouse's Point v. The Delaware and Hudson, Ogdensburgh and Lake Champlain, Grand Trunk and Central Vermont railroads for a proper depot at said village or at the junction of the Delaware and Hudson, Grand Trunk and Ogdensburgh and Lake Champlain roads.

Superintendent Young, of the Delaware and Hudson Canal Company, appeared, and a telegram from the Ogdensburg and Lake Champlain superintendent, stating he was unavoidably detained. The hearing was adjourned to Albany, at a future time, within three weeks, the roads to be notified of the time of hearing by the Board. Accepted.

Commissioner O'Donnell moved that the Secretary notify the Grand Trunk Railroad Company that upon an examination of the depot facilities furnished by said road at Rouse's Point, at its junction with the Delaware and Hudson and the Ogdensburg and Lake Champlain companies, the Board will hereafter make an order in relation thereto, and will hear the Grand Trunk Railroad Company thereon at its office in the city of Albany on the 13th day of January, 1885. Carried.

Commissioner Kernan submitted the bill of J. J. Harding. Ordered approved at \$148.25.

The Accountant submitted the annual report of the New York and Sea Beach Railroad Company as not conforming to the requirements of law. Ordered, that A. H. Mann be subpoenaed to show cause why the facts should not be presented to the Attorney-General of its failure to conform with the law, and its failure to file report on the 20th of December.

Commissioner Kernan moved that when the Board adjourn it adjourn until January 7, 1885, at 10 A. M. Carried.

Commissioner Kernan called up the report on the Utica and Black River Railroad Company. Adopted, with Commissioner Rogers, who had entered at 12:15 P. M., dissenting, as set forth in the report and ordered issued.

Commissioner Rogers called up the report on the accident on the Rochester and Pittsburg railroad. Adopted, and ordered issued.

Commissioner Rogers called up the matter of the Binghamton (Chenango street) crossing. Ordered, that the New York, Lake Erie and Western Railroad Company be cited to appear before the Board of Railroad Commissioners to show cause why the recommendations made in the report of the Inspector to the Board, a copy of which is accompanying, should not be adopted on January 7, 1885, at 10 A. M.

The Board adjourned.

WILLIAM C. HUDSON,
Secretary.

JANUARY 7, 1885.

The Board met pursuant to adjournment. All present.

Minutes were read and approved.

B. Thomas, general superintendent New York, Lake Erie and Western Railroad Company, appeared in answer to citation in the Chenango street (Binghamton) crossing matter. Ordered, that the matter be held open until the first meeting in February, and that in the mean time a report be made to the Board of the result of the measures that they take in reducing the use of the street, the road also to send a record of the number of crossings it makes between 7 A. M. and 9 P. M., and 9 P. M. to 7 A. M., in a period of fifteen days, when the arrangements are all completed to reduce them to a minimum.

Arlrick H. Mann, treasurer and secretary New York and Sea Beach Railroad Company, appeared in answer to a subpoena in the matter of failing to conform with the law in the making of the annual report, and in failing to file the report on the 20th day of December, 1884. Ordered, that the matter be held open until the 20th of January.

The Secretary submitted as unfinished business the following:

Letters of Wm. H. Hawkins, relative to the Melrose crossing. Referred to Commissioner Rogers, with power to investigate.

Letter of J. F. Maynard (Utica and Black River Railroad Company), asking extension of time in which to answer the decision of Board. Ordered, that the Secretary notify the company that the request is denied and that the facts in the case will be forthwith transmitted to the Attorney-General by the following vote:

Ayes — Commissioners O'Donnell and Kernan.

Nay — Commissioner Rogers.

Letter of Mullen & Griffin, asking for return of brief. Ordered, that a copy be sent them.

Letter of Chas. Haines. Ordered, that copy be sent New York Central and Hudson River Railroad Company, and referred to Commissioner O'Donnell.

Letter of R. A. Vervalen, relative to Haverstraw depot matter. Ordered, that Secretary write that the Commissioners under the law have reported the facts in the case to the Attorney-General, and that it will report the case to the Legislature and suggest that a correspondence be opened up with the Attorney-General.

Letter of E. F. Winslow, relative to revision of tariff on New York, Ontario and Western railway. Referred to Commissioner Rogers.

Of John King (New York, Lake Erie and Western Railroad Company), relative to inspections. Ordered filed.

Of Geo. A. Gunther (Brooklyn, Bath and Coney Island Railroad Company), relative to its complaint against New York and Sea Beach Railroad Company.

On motion of Commissioner O'Donnell it was agreed that a hearing should be held in New York city at a date to be hereafter specified.

The Secretary announced a dispatch from Commissioner O'Donnell, stating that he would reach Albany and meet the Board in the evening.

After waiting five minutes according to rule, no quorum being present, the Board stood adjourned until 10:15 A. M., Jan. 18th: the regular hour for meeting.

WILLIAM C. HUDSON,
Secretary.

JANUARY 13, 1885.*

The Secretary called the roll at 10:15 A. M. Present—Commissioner Rogers. Absent—Commissioners Kernan and O'Donnell.

After waiting five minutes according to rule, before the expiration of which time Commissioner O'Donnell appeared, the roll was called again, showing Commissioner Kernan absent.

The Secretary announced that there was no presiding officer.

Commissioner Rogers moved that Commissioner O'Donnell take the chair.

The Secretary put the question, which being declared in the affirmative, Commissioner O'Donnell took the chair.

The minutes of the previous meetings were read, pending which, at 10:35, Commissioner Kernan arrived, and the reading was interrupted by the Chairman *pro tem.* to turn over the chair to the Chairman.

The minutes, after reading, were approved.

Commissioner Kernan, as a question of privilege, reported that he was prevented reaching Albany in time for the meeting of the 12th by the train of the Utica and Black River Railroad Company being delayed an hour and a half at Stittsville.

Commissioner O'Donnell, as a question of privilege, stated that he had notified the Board by telegraph of his delay, and that he had reached Albany at 6 P. M. January 12.

Under the order of unfinished business the Secretary submitted the following:

Letter of J. H. Bowron, relative to Rouse's Point depot; also, that of J. Hickson of Grand Trunk Railway Company, relative to the same matter. Ordered, that the Secretary write Mr. Bowron that he promised to send a map of the premises, and that as soon as that map is received a report will be made.

Letter of William V. Reynolds, receiver Lebanon Springs Railroad Company. Ordered filed with inspection papers.

Letter of Henry W. Sage, relative to crossing in town of Riga. Ordered, that Secretary write New York Central and Hudson River Railroad Co. and ask what, if any, action has been taken, and if answer is not immediately received, the Board will be under the necessity of issuing a citation to show cause why the matter should not be turned over to the Attorney-General.

Letter of Delaware, Lackawanna and Western Railroad Company. Ordered on file.

Letter of Mr. Hawkes, chief engineer Michigan Central Railroad Company. Ordered, that a blue print and circular be sent him.

Mr. H. G. Young (Delaware and Hudson Canal Company), was heard in reference to the Schenectady depot matter, and notified the Board that citizens of Schenectady had applied for a withdrawal of the notice, which had been done.

Papers in the matter of the application of the Thirty-fourth Street Railroad Company. Ordered, that the company be informed that a hearing will be begun next Tuesday at 12:30 P. M., in order that the company may show that an increase of capital stock from one to three hundred thousand dollars is necessary for the construction and operation of the road.

Commissioner O'Donnell called up the matter of the complaint of Brooklyn, Bath and Coney Island Railroad Company v. New York and Sea Beach Railroad Company. Ordered, that hearing be set down for 2 P. M., Wednesday, January 14th.

Commissioner Rogers called up the letter of Austin Corbin, relative to the war of rates between New York Central and Hudson River Railroad Company and New York, West Shore and Buffalo Railway Company. Ordered, that Secretary write Austin Corbin that:

"Copies of your communication relative to the war of rates between the New York Central and Hudson River Railroad Company and the New York, West Shore and Buffalo Railway Company were transmitted to the two companies, as being the best means of bringing the subjects thereof to the attention of the companies before named. No answers have been received thereto.

"The Board does not deem it its duty to investigate as to the matters alleged in your communication for the reason that you do not allege yourself to be a shareholder or creditor of either of the two companies referred to, nor do you, as president of the Elmira, Northern and Cortland Railroad Company, allege any specific act of discrimination against the company, or of any specific act of injury done it."

Commissioner Rogers offered a report on the matter of four collisions on Manhattan Elevated road. Ordered issued and adopted.

Commissioner Kernan called up the report on legislation to be recommended:

Exigency Act, adopted.

Amendments to general act marked No. 1, adopted.

The Leasing, Commission and Transportation Acts were laid over for one week.

Commissioner O'Donnell offered the following:

WHEREAS, The following horse railroad companies which have paid more than ten per cent dividends on their capital stock during the year ending September 30, 1884, as shown by their annual reports for that year, filed with the Board of Railroad Commissioners, to-wit:

Broadway, of Brooklyn, capital \$350,000, dividend, \$49,000, rate fourteen per cent.

Brooklyn City, capital, \$2,000,000, dividend, \$280,000, rate, fourteen per cent.

Dry Dock, East Broadway and Battery (New York city), capital, \$1,200,000, dividend, \$156,000, rate, thirteen per cent. Issued certificates of indebtedness for \$1,200,000 to stockholders, claimed to be for surplus earnings undivided.

Eighth Avenue (New York city), capital, \$1,000,000, dividend, \$140,000, rate, fourteen per cent. Issued certificates of indebtedness for \$1,000,000 to stockholders, claimed to be for surplus earnings undivided.

Forty-second Street and Grand Street Ferry (New York city), capital, \$748,000, dividend, \$184,640, rate, eighteen per cent.

Sixth Avenue (New York city), capital, \$750,000, dividend, \$75,000, rate, ten per cent. Paid an extra dividend of \$600,000 from proceeds of bonds sold, loans called in, etc. Issued scrip for \$750,000 to stockholders, claimed to be for increased value of property, etc., etc., or surplus earnings expended.

Second Avenue (New York city), capital, \$1,861,833.84, increased during year, \$465,333.84, dividend paid, \$162,858.33, which the company state was ten per cent (probably ten per cent on amount of stock outstanding). Paid an extra dividend of \$139,650 from undivided surplus, which was ten per cent on capital as it stood last year.

Third Avenue (New York city), capital, \$2,000,000, dividend, \$320,000, rate, sixteen per cent. Therefore,

Resolved, That the Accountant of this Board be directed to report at the next meeting what rate passengers can be carried over each of the above roads and pay at least ten per cent on the capital stock of each, as it appears from reports of said roads, and also at what rate passengers can be carried on each of said roads so as to pay at least ten per cent upon the cost of such road and equipment, as appears by the annual reports of said roads. Carried.

Bill of L. B. Lansing, for copying reports, for \$40.50. Ordered approved.

Adjourned.

WILLIAM C. HUDSON,
Secretary.

JANUARY 20, 1885.

The Board met pursuant to adjournment. All present at the hour.

The minutes were read and approved.

The Secretary submitted unfinished business as follows:

Letter of Austin Corbin, president Long Island Railroad Company, relative to statistics of freight rates as compared with milk rates.

Commissioner Kernan offered the following:

WHEREAS, Upon the hearing of an order to show cause why the Long Island Railroad Company should not be reported to the Attorney-General for neglect to comply with the recommendations of the Board for a reduction of milk rates from thirty cents to twenty-five cents per can, the said company presented reasons why a rehearing should be given and has since transmitted to the Board certain statistics and tables in support of the statements then made; therefore

Resolved, That a copy of the statement made before the Board of the statistics and tables be sent to the counsel for the complainants, and that he be given ten days' time in which to submit to the Board his answer thereto, and that pending receipt of such answer the application for a rehearing be held in abeyance. Carried.

The application of the Herkimer, Newport and Poland Narrow Gauge Railroad Company, for an increase of capital stock.

Resolved, Under the rule the Accountant be instructed to examine the accounts of the road under the application and report to the Board. Carried.

Letter of Albert Fink, commissioner joint executive committee, relative to traffic forwarded from New York city to points west. Ordered, that copies be sent to the complainants and the statement be filed.

Letters of Lehigh Valley; Rome, Watertown and Ogdensburg; and New York, West Shore and Buffalo Railroad Companies, as to Suspension Bridge depot facilities. Ordered filed.

Letter of C. L. Kimball, relative to bridges on Newburgh, Dutchess and Connecticut railroad. Ordered filed.

Letter of Mr. Hawkes, chief engineer Michigan Central Railroad Company. Ordered to send prints of New York, West Shore and Buffalo cattle-guards.

Letter of H. G. Young, relative to Widow Lawyer's crossing. Ordered, that a communication be addressed to Mr. Young to know why the Board does not hear from him on the subject.

The Secretary submitted a statement of pending cases and received instructions as to the same. Also, a statement of the distribution of the first volume of the edition of five hundred copies of the annual report. Approved.

Mr. Apgar appeared for the Thirty-fourth Street Railroad Company, in the matter of its application for an increase of capital stock. Ordered, that the company send to the Board under oath the construction account to date, a copy of the decision of the court as to the consent of the property owners, the amount of the stock and bonds outstanding, and the amount of the equipment account, of the debt and financial condition generally, and if any briefs in the case before the court, those also.

Commissioner Rogers submitted a report of the accidents occurring on the New York, West Shore and Buffalo Railway. Ordered adopted and issued.

The Accountant submitted the application of the New York and Sea Beach Railroad Company for an extension of ten days' time in filing its quarterly report, sent back for correction. Granted.

The matter of the charge of interest in the report of the New York, West Shore and Buffalo Railway Company. Ordered, that the Accountant insert a note on table H, explanatory of the same.

Report as to companies delinquent in the filing of reports, and the dates of such filing. Ordered filed.

Report on the matter of the application of the Herkimer, Newport and Poland Narrow Gauge Railroad Company.

On motion of Commissioner Kernan, consent was granted, and the following ordered to be sent the company:

The application for an increase of capital stock of the Herkimer, Newport and Poland Narrow Gauge Railroad Company, from \$120,000 to \$250,000, is granted, and the increase is approved, the same by the report of the Accountant of the Board appearing to be necessary for construction and operation of the road.

Report of Accountant on street surface roads, and the dividends of the companies thereof as required by resolution of January 13th. Ordered filed.

Commissioner O'Donnell moved to reconsider the vote by which resolution to recommend the following act to the Legislature for passage was lost:

AN ACT to ascertain the capital actually expended in the construction of railroads.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. It shall be the duty of the Railroad Commissioners, as soon as practicable, consistent with the duties heretofore devolved upon them, to examine and ascertain the cash capital actually expended in the constructing and equipping of each of the surface railroads in the State, including street railroads, and report the same to the succeeding Legislature.

§ 2. This act shall take effect immediately.

On motion of Commissioner O'Donnell, laid on the table.

The Secretary submitted letter of Geo. E. Repsom as to frogs. Ordered, that he write that no directions have been given.

Homer C. Markham, relative to charges of discrimination against the Utica and Black River Railroad Company. Ordered, that the reports in the case be sent him with the statement that the whole matter has been turned over to the Attorney-General.

Letter of D. C. Littlejohn, relative to a projected railroad. Referred to Commissioner Kernan.

Commissioner Kernan called up his report on legislation.

The leasing act, marked "C," was adopted.

Commissioner O'Donnell moved to reconsider the vote by which the act proposed, marked "A," was adopted. Carried.

Commissioner O'Donnell moved to amend section 32 of chapter 140 of Laws of 1850, as follows:

"The Board of Railroad Commissioners shall publish the quarterly reports made to such Board in one paper, where the principal office of such railroad is located, immediately upon the receipt thereof, and the expense of such publication shall be defrayed by a percentage to be assessed by the Comptroller upon the capital stock of all railroads doing business under the laws of the State. Any railroad corporation which shall fail to make the annual and quarterly reports required under the provisions of chapter three hundred and fifty-three, Laws of eighteen hundred and eighty-two, and within the time prescribed by law, or which shall fail to correct such reports within ten days after notice by the Board, shall be liable to a penalty of two hundred and fifty dollars, and an additional penalty of twenty-five dollars for each day's neglect." Adopted.

Commissioner O'Donnell moved that the act submitted by him, entitled "An act to protect commerce on the canals of the State," be recommended to the Legislature for passage. Carried.

Commissioner Kernan called up the following resolution:

Resolved, That H. M. Thompson be directed to proceed as soon as he can do so, with a further and complete examination of the construction account as now presented and claimed

by the Sixth Avenue Railroad Company, and of all books, vouchers and evidence, to be produced in connection therewith, and report thereon to the Board. Adopted.

A recess was taken until 10 A. M., January 21.

AFTER RECESS, JANUARY 21, 1885.

Board in session.

The Board took into consideration the amendments to the Commission act. Referred to Commissioner Kernan to report upon at next meeting.

Commissioner Kernan moved to lay on the table the act relative to the transportation of freight. Carried.

Commissioner O'Donnell called up his motion to reconsider the vote by which his motion to recommend to the Legislature for passage an act entitled "An act to ascertain the capital actually expended in the construction of railroads," was lost. Lost.

Aye—Commissioner O'Donnell.

Nays—Commissioners Rogers and Kernan.

Recess was taken for one hour.

After recess.

Commissioner O'Donnell offered the following:

WHEREAS, Certain horse railroads in the cities of Brooklyn and New York, as appears by the quarterly reports made to this Board, and also by a special report to the Board by its Accountant, have paid dividends the past year largely in excess of ten per cent, besides extra dividends of scrip and stock, to-wit: In Brooklyn: Broadway Railroad Company, dividend, fourteen per cent; Brooklyn City Railroad Company, fourteen per cent. New York city: Dry Dock, East Broadway and Battery Railroad Company, thirteen per cent, besides issuing to their stockholders in addition to this, dividend certificates of indebtedness for \$1,200,000 (same amount as capital stock) claimed to be for undivided surplus earnings; Eighth Avenue Railroad Company, dividend fourteen per cent, and in addition to this dividend of fourteen per cent has issued certificates of indebtedness to stockholders for \$1,000,000 (same amount as capital stock), claimed to be for undivided surplus. Forty-second Street and Grand Street Ferry Railroad Company, dividend eighteen per cent; Second Avenue railroad, regular dividend ten per cent and an extra dividend ten per cent; Third Avenue Railroad Company, dividend sixteen per cent; Sixth Avenue railroad, dividends five per cent from earnings and forty per cent from sale of United States bonds and loans called in. In addition to these dividends, a scrip dividend equal to the capital was declared of \$750,000; therefore

Resolved, That the Accountant of this Board proceed to investigate the books and accounts of each of the above roads, to ascertain in each case the cost of construction and equipment, and their financial condition. Adopted.

Inspector Spencer was granted a vacation of thirty days, to take effect 1st February, 1885.

The Board adjourned until Monday, January 26, 1885.

WILLIAM C. HUDSON,
Secretary.

JANUARY 26, 1885.

The Board met at 3 P. M., pursuant to adjournment.

The minutes were read and approved.

Commissioner O'Donnell rose to a question of privilege and stated the same to be as follows:

WHEREAS, Certain articles appeared in different New York daily papers on Friday last, purporting to be a statement by Commissioners Rogers and Kernan, to various newspaper correspondents, charging Commissioner O'Donnell with sending to the press garbled reports of certain action of the Board with reference to horse railroads in the cities of Brooklyn and New York, such garbled reports so alleged being in the following words:

"And to prepare bills, if necessary, to reduce the rate of fare for passengers so as to allow but ten per cent dividends upon honest capital;" and

WHEREAS, Commissioner O'Donnell says, that the words so quoted were not sent by him, and that the original copy given to the press has at his request been preserved in the office of the Western Union Telegraph Company; therefore

Resolved, That this Board do now adjourn and proceed to such office and inspect such original copy.

Upon this the Chairman said:

By chapter 358 of the Laws of 1882, creating this Board, no power is given to this Board to investigate charges made by members of the Board against other members, or to try such charges in any form. The act provides that "any Commissioner may be suspended from office by the Governor upon written charges preferred."

The Chair, therefore, rules that the motion is out of order, and that this Board has no power to make the inspection asked for, since such inspection would involve an examination of witnesses in order to determine the condition of the paper when it reached the Western Union Telegraph office, and the Board would thus be engaged in an investigation which it has no power to make.

Commissioner Rogers rose to a question of privilege, stating:

I concur with the determination of the Chair as to the impropriety of examining the paper in question, with the further statement, however, that while the Board may have no power to make an investigation if objection is raised by the member to be investigated, Commissioner O'Donnell does not request an investigation of the whole subject, but simply the examination of one paper. If a request by Commissioner O'Donnell to investigate the whole subject was made, I should be in favor of making it.

Commissioner O'Donnell, on a question of privilege, asks that the Board proceed to investigate all the matters in connection with said original copy furnished by him to the press,—the said copy being now in possession of the Western Union Telegraph Company, held subject to the examination of this Board.

The Chair ruled as follows:

The Chair, in accordance with his previous ruling and for the reasons then stated, rules that the Board has no power to make such an investigation upon charges by members of the Board against other members, and hence rules the motion out of order.

Commissioner Kernan, as a question of privilege, stated that he never made to any newspaper correspondent, directly or indirectly, a statement, charging Commissioner O'Donnell with sending to the press garbled reports of certain action of the Board with reference to horse railroads in the cities of New York and Brooklyn. He also states that he made no statement and had no interview or conversation with any New York correspondent on the question.

Commissioner Kernan gave the following memorandum to Commissioner Rogers and authorized him to use the same as he deemed proper in correcting the error in the resolution as published.

The resolution, as passed by the Board of Railroad Commissioners, in reference to the street railroads of New York, was as follows:

WHEREAS, Certain horse railroads in the cities of Brooklyn and New York, as appears by the quarterly reports made to this Board, and also by a special report to the Board by its Accountant, have paid dividends the past year largely in excess of ten per cent, besides extra dividends of scrip and stock, to-wit: In Brooklyn: Broadway Railroad Company, dividend, fourteen per cent; Brooklyn City Railroad Company, fourteen per cent. New York city: Dry Dock, East Broadway and Battery Railroad Company, thirteen per cent, besides issuing to their stockholders in addition to this, dividend certificates of indebtedness for \$1,200,000 (same amount as capital stock) claimed to be for undivided surplus earnings; Eighth Avenue Railroad Company, dividend fourteen per cent, and in addition to this dividend of fourteen per cent has issued certificates of indebtedness to stockholders of \$1,000,000 (same amount as capital stock) claimed to be for undivided surplus; Forty-second Street and Grand Street Ferry Railroad Company, dividend eighteen per cent; Third Avenue Railroad Company, dividend sixteen per cent; Sixth Avenue Railroad Company, dividends five per cent from earnings and forty per cent from sale of United States bonds and loans called in. In addition to these dividends, a scrip dividend equal to the capital was declared of \$750,000; therefore

Resolved, That the Accountant of this Board proceed to investigate the books and accounts of each of the above roads, to ascertain in each case the cost of construction and equipment, and their financial condition.

The words "and to prepare bills, if necessary, to reduce the rate of fare for passengers so as to allow but ten per cent dividend upon honest capital," were contained in the original resolution as proposed by Commissioner O'Donnell, but were stricken out by the Board before the passage of the resolution.

Commissioner Rogers stated, as a matter of privilege, that the statement made by him to the Albany correspondent of the New York Times was as follows:

"Commissioner Rogers says of it: 'The last clause of the resolution as printed in the newspapers was contained in the original resolution as proposed by Commissioner O'Donnell, and also certain expressions in the preamble, all of which, however, were stricken out before the passage of the resolution, after a long discussion. In view of the fact that no complaints have been received by the Board as to the fare of five cents on these street railroads being burdensome, and in view of the fact that the report of the Accountant of the Board (made up from the annual reports of the roads) showed that a reduction of one cent on each fare would bring the net income below ten per cent on the capital actually expended (the large percentage earned on the cost of construction as given by the roads being the result of a fraction of a cent in the fare in the cases quoted), it was deemed inexpedient by the Board to pass the resolution in the shape offered by Commissioner O'Donnell.

"While it may be possible or probable that the rates could be reduced an even cent without reducing the net income below ten per cent on the capital actually expended, as provided by section 83 of the General Railroad Act, the report of the Accountant does not show it; and I deem it highly improper for this Board, which is judicial in its character, to pass resolutions apparently prejudging cases of such magnitude as this without any notice to the road in interest, and without any examination by this Board into the actual con-

dition of the construction account. I deem it outrageous for a Commissioner to give to the press for publication a resolution containing such expressions as having passed, when, in fact, it did not pass, but were stricken out after a long discussion."

The Secretary submitted the unfinished business as follows:

Telegram from Abel Crook, counsel to Traders and Travelers' Union, asking extension of time. Granted.

Thos. H. Wickes (Law Department, New York city), asking a copy of Accountant's report. Ordered sent.

Letter from John King (New York, Lake Erie and Western Railroad Company), relative to Suspension Bridge depot. Ordered filed.

Letter of R. M. Galloway, relative to accident, asking extension of time to the 29th inst., in which to answer. Granted.

Letter and statement accompanying, relative to Binghamton (Chenango street) crossing. Ordered to lie upon the table.

Recess taken.

AFTER RECESS, JANUARY 28, 1885.

Board in session.

Letter of H. G. Young, relative to Widow Lawyer's crossing (Cobleskill). Ordered to lie upon the table.

The Accountant submitted, in the matter of the question of the Bushwick Railroad Company, as to whether, in quarterly reports, for the purpose of comparison, the items of the corresponding quarter for 1883 should be so reported as to make a proper comparison with the quarters of this year under the present system, or whether they should be made as under the old system. Ordered (and as a rule generally), that they be made so that a comparison, under the new system, could be made.

Letter of J. Sidney Goldsmith. Ordered, that the Secretary write that his letter has been filed, and if the Board have need of his services he will be informed thereof.

Letter of Julian T. Davies, relative to the Elevated Railroad Company's accidents. Ordered, that the Secretary write that the Board cannot grant an extension to answer in a matter involving the physical condition of the road and the safety of its passengers, because of the pressing engagements of counsel, and that the Board has, therefore, written the vice-president of the company, that under the circumstances an answer will be expected from him by the 10th of February.

Letter of Alrick H. Mann. Ordered filed and referred to Accountant.

Letter of C. M. Depew, relative to Churchville crossing. Ordered, Secretary write New York Central and Hudson River Railroad Company, and New York, West Shore and Buffalo Railway Company whether the West Shore crossing at Churchville, town of Riga, county of Monroe, was made pursuant to agreement or under an order of the court, and in either case send a copy of the conditions under which the crossing was allowed.

Petition of cartmen of New York city. Ordered usual course.

Commissioner Kernan called up his report on legislation.

Commissioner O'Donnell moved to reconsider the vote by which the act marked "C," namely, the Tenure act, was carried. Carried.

Commissioner O'Donnell moved to amend by adding the following words to section 3: "Provided, no companies or corporations of the State whose railroads run on parallel or competing lines shall lease each other." Lost.

Aye — Commissioner O'Donnell.

Nays — Commissioners Rogers and Kernan.

The bill was then adopted unanimously.

Amendments general act "A" was adopted unanimously, Commissioner O'Donnell having voted against section 53.

On the Commission act, Commissioner Rogers moved to amend by striking out in line 22, the words "the Attorney-General" and to insert on line 24 after the words "with the recommendation of the Board" the words "or brought by the Attorney-General." Lost.

Aye — Commissioner Rogers.

Nays — Commissioners O'Donnell and Kernan.

The Commission act was then adopted.

Commissioner O'Donnell offered the following:

WHEREAS, It appears that certain horse railroads in the city of New York have, during the past year, made large dividends in excess of ten cent upon their capital stock; and

WHEREAS, It is alleged that the system of transfer tickets is onerous and burdensome to the people of such city, therefore

Resolved, That the subject be referred to a committee of two of this Board of which the chairman shall be one, to inquire into and examine the whole subject of transfer tickets, in order to devise some just plan by which passengers over such roads can be transferred from any point in the city to any other point in the city on the same day for one fare, not exceeding five cents.

Commissioner Kernan offered the following as an amendment:

Resolved, That in connection with the matters already directed by the Board to be investigated by the Accountant concerning certain horse railroads of Brooklyn and New York,

he be directed to ascertain and report to the Board what system of transfer tickets are in operation among said railroads, or any of them, and to what extent if at all, passengers over such roads can be transported over different connecting roads for single fares and the amount thereof, and that he prepare and present to the Board a schedule showing the combined fares charged to passengers in passing between points in the said cities, over different connecting street railroads.

Commissioner Kernan withdrew his amendment; and the resolution offered by Commissioner O'Donnell was lost.

Aye — Commissioner O'Donnell.

Nays — Commissioners Kernan and Rogers.

Commissioner Kernan renewed his resolution as above.

Commissioner O'Donnell offered as an amendment to the resolution offered by Commissioner Kernan, the following:

And if it be found upon the report of the Accountant that any horse railroad in the city of New York has during the past year declared a dividend largely in excess of ten per cent upon its capital, that thereupon this Board will recommend to the Legislature a reduction of the rate of fare and also the adoption of a system of transfer tickets from any point in the city to any other point for one continuous fare of five cents. Lost.

Aye — Commissioner O'Donnell.

Nays — Commissioners Kernan and Rogers.

The question then came on Commissioner Kernan's resolution. Carried.

Ayes — Commissioners Rogers, Kernan and O'Donnell.

The Board then adjourned until 10:15 A. M., Tuesday, February 8, 1885.

WILLIAM C. HUDSON,
Secretary.

FEBRUARY 3, 1885.

Board called to order at 10:15 A. M. Present — Commissioners O'Donnell and Kernan. The Secretary submitted a letter from Commissioner Rogers announcing his absence by reason of the death of a child.

Commissioner O'Donnell moved that out of respect to Commissioner Rogers the Board adjourn. Carried.

Adjourned.

WILLIAM C. HUDSON,
Secretary.

FEBRUARY 10, 1885.

The Board met at the appointed hour. All present.

The minutes of the last two meetings, January 26 and February 3, were read and approved.

The Secretary, under the rule, submitted the unfinished business as follows:

Communication of Manhattan Elevated Railway Company (R. M. Galloway), relative to the recommendations as to collisions of date of January 14, 1885.

Commissioner Kernan moved that it be referred to Commissioner Rogers.

Commissioner O'Donnell moved to amend as follows:

Resolved, That a communication be sent to the elevated railways of New York city inquiring as to the utility and practicability of providing a system of lighting the entire length of the tracks of their respective roads with electric lights, to be used in case of foggy weather, with a request for an answer within ten days.

Accepted by Commissioner Kernan, and the motion as thus amended was adopted.

Letter of the Attorney-General. Referred to Commissioner O'Donnell to report to the Board thereupon.

Report of Mr. Thomas W. Spencer, Inspector, on the extent of the compliance of the Utica, Clinton and Binghamton Railroad Company.

Commissioner Kernan moved that a copy of the report be sent to the company with a notice to show cause on February 24, 1885, why the failure of the company to comply should not be turned over to the Attorney-General.

Complaint and petition of citizens of Greenbush. Ordered usual course.

The statement of Mr. Coughtry that the signal had not yet been erected at the Bethlehem crossing, Albany county. Ordered, that the company be cited to show cause why the failure should not be turned over to the Attorney-General for his consideration and action.

Replies of Commissioner Fink and New York, Lake Erie and Western Railroad Company to the complaint of the cartmen. Laid over for one week.

Letter of C. B. Meyer, relative to the increase of milk rate on the New York, Lake Erie and Western railroad. Ordered filed.

Letter of C. B. Meyer, relative to Long Island milk case: application for a rehearing.

Commissioner Kernan moved that the application for a rehearing be granted and set down for the 25th instant, at 10 A. M., at the Chamber of Commerce, and that at that time the Long Island Railroad Company will be required to present, under oath, evidence to sustain the tables and estimates presented by it under such application, and that the complainants will have a right to cross-examine and present evidence in opposition thereto.

Letter of D. J. Apgar, relative to the application for increase of capital stock of Thirty-fourth Street Railroad Company. Ordered filed.

Letters of New York Central and Hudson River Railroad Company and the New York, West Shore and Buffalo Railway Company, relative to Churchville crossing. Referred to Commissioner Rogers.

Letter of J. H. Brown. Referred to Commissioner O'Donnell.

Letter of J. T. Davies, relative to the Robinson complaint against the Manhattan Elevated Railway Company. Referred to Commissioner Kernan.

Letter of B. Thomas, superintendent New York, Lake Erie and Western Railroad Company, relative to Binghamton crossing. Laid over.

The Accountant submitted the revised report of the New York and Sea Beach Railroad Company showing material differences between two sworn reports. Ordered, that the company be written to, calling attention to the difference, and asking an explanation.

Request of Grand Street and Prospect Park Railroad Company for an extension of time of ten days in which to make quarterly report. Granted.

The first quarterly report of the Mann Boudoir Car Company. Ordered, that the company be notified that the present report is accepted.

The case of the New Jersey and New York Railroad Company, in failing to report.

Commissioner Rogers offered the following:

WHEREAS, The New Jersey and New York Railroad Company, a corporation owning and operating 16.75 miles of track in the State of New York, out of a total of 36.75 miles, have failed to make an annual report for the year ending September 30, 1884, to the Board of Railroad Commissioners.

Resolved, That the said failure of the said New Jersey and New York Railroad Company be reported to the Attorney-General for prosecution to recover penalties, under section 82, chapter 140, Laws of 1850, as amended by chapter 353, Laws of 1882. Adopted.

The Accountant called attention to delinquent companies in making quarterly reports. Ordered, that the Accountant report a list of the same to the Secretary, and that the Secretary issue citations to the same to appear a week from next Tuesday, February 24, 1885.

Commissioner O'Donnell made a report on the complaint of people of Rouse's Point against the Delaware and Hudson Canal Company, and the Grand Trunk Railway of Canada. Adopted and ordered issued.

Commissioner O'Donnell reported back the Attorney-General's opinion, which was referred to Commissioner Kernan.

Commissioner Kernan reported on the letter of D. C. Littlejohn, referred to him. Adopted and ordered issued.

Commissioner Kernan reported on the Herkimer station matter, referred to him. Adopted and ordered issued.

Commissioner Kernan reported on the case of Bunnell. Ordered printed.

NEW BUSINESS.

Complaint of Farmers' Coöperative Association against the Long Island Railroad Company and answer of Austin Corbin, president Long Island Railroad Company, in answer thereto.

Commissioner Rogers moved that Mr. O'Donnell be requested to make his complaint more specific, stating present rates on Long Island road to Jamaica, and rates on the other roads to which he refers. Carried.

Complaint of citizens of Greenbush v. New York Central and Hudson River and Boston and Albany Railroad Companies. Ordered usual course.

Assembly resolution as to printing. Ordered, that Secretary send the information.

Complaint of citizens of Harpersfield against Ulster and Delaware Railroad Company. Usual course.

Application of Steinway and Hunter's Point Railroad Company for increase of capital stock. Ordered usual course.

Communication of Rome, Watertown and Ogdensburgh Railroad Company as to its line on map of the Board. Referred to Secretary with power. Ordered, that Secretary send a copy of the map with a circular requesting that any errors of location be pointed out to the Board.

Petition of residents of Twenty-fourth ward as to blowing of whistles. Usual course.

Letter of Mr. Felton, treasurer, as to Ames' Automatic Car Coupler Company. Ordered that he send the model.

Letter of H. G. Young as to Widow Lawyer's crossing. Laid over one week.

Letter of A. J. Sanders, relative to delay on Greenwich and Johnsonville railroad.

Commissioner O'Donnell moved that the following letter be sent:

Complaint has been made to the Board that your morning train, which leaves at 7:35 A. M., arrives at Johnsonville about ten minutes too late for Boston and Hoosac Tunnel railroad, thus compelling passengers who may want to go to Saratoga to wait nearly four

hours or else go to Troy at an additional expense of fifty-one cents, beside the delay. It is also alleged that the time of the morning train is forty-eight minutes while the evening train runs thirteen minutes quicker. Please inform the Board what, if any, reasons exist why a connection in the morning with the Boston and Hoosac Tunnel railroad cannot be made. This seems very desirable for the accommodation of the traveling public.

Letter of Jos. Van Veer, as to street railways. Ordered filed.

Commissioner O'Donnell offered the following:

Resolved, That no supplies be purchased for the use of this office, except upon the written requisition of the Secretary under the authority of the Board, and that the Secretary be required to keep a record of the requisitions issued. Adopted.

Commissioner O'Donnell offered the following:

Resolved, That no telegrams be sent from this office, except by members of the Board, to be paid for by the Board, unless such prepaid dispatches have the stamp of the Secretary upon them. Adopted.

Commissioner Kernan offered the following:

Resolved, That the Secretary be instructed to procure such number of locks with keys to place on such of the cases as in his judgment will seem necessary, to the proper protection of the books, papers and records of the Board committed to his care. Adopted.

On motion of Commissioner Kernan, the papers in the Traders and Travelers' Union were referred to Commissioner O'Donnell to report upon, with power to print.

Commissioner Rogers offered the following:

Resolved, That the Board recommend to the Legislature the following addition to section 2 of chapter 878, Laws of 1888.

"Provided, that no receiver of a railroad corporation shall receive as compensation for his services for one year or less, a greater sum than \$20,000, nor for subsequent years more than at the rate of \$20,000 per year."

Commissioner O'Donnell moved to amend by striking out \$20,000 and inserting \$10,000.

Lost.

Aye — Commissioner O'Donnell.

Nays — Commissioners Rogers and Kernan.

Commissioner O'Donnell moved to amend by striking out \$20,000 and inserting \$16,000.

Lost.

Aye — Commissioner O'Donnell.

Nays — Commissioners Rogers and Kernan.

The question was then upon the original resolution.

Ayes — Commissioners Rogers and Kernan.

Nay — Commissioner O'Donnell.

A recess was then taken until the next morning, at 10 A. M.

AFTER RECESS, FEBRUARY 11, 1885.

Board reconvened.

Commissioner O'Donnell submitted the matter of heating and ventilating the cars on the elevated railways of New York city, and offered the following preamble and resolution:

WHEREAS, It is alleged that passengers who travel on the elevated railroads of New York city suffer great inconvenience by reason of the heating of the cars under passenger seats, and from the want of a proper system in regulating the heat according to the temperature of the weather, and also for the lack of proper ventilation in such cars; therefore

Resolved, That said roads be requested to report to this Board within ten days, as to the practicability of heating their cars by pipes or otherwise, at or near the center of the floor instead of under the seats, and what, if any, reason exists why such change should not be made; and also what, if any, regular system is practiced on the cars to provide for proper heat and ventilation according to the temperature of the weather outside, and what, if any, action has been taken in reference to the recommendation of the Board, December 10, 1883, as to an improved system of heating and ventilating, as set forth in Circular No. 23. Adopted.

By unanimous consent, the Board ordered the following communication to be addressed to the committee of merchants and to the Traders and Travelers' Union, asking —

"If they have prepared any specific bill or measure which they deem would secure the redress of the grievance in connection with the diversion of freight, and if so, to transmit the same to the Board at their earliest convenience."

By unanimous consent, the Secretary was ordered to withhold the citation to companies reported delinquent on quarterly reports until after the next meeting.

By unanimous consent, the Secretary was instructed to transmit the opinion of the Attorney-General to the Senate and Assembly.

The Board then adjourned.

WILLIAM C. HUDSON,
Secretary.

FEBRUARY 17, 1885.

● The Board met pursuant to rule. All present.

The minutes were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of Mr. Rumrill (Boston and Albany Railroad Company), relative to the Greenbush complaint. Ordered filed.

Commissioner Rogers, after reporting a verbal application of the Boston and Albany Railroad Company for extension of time in which to answer, moved that the time be extended to the first of March. Carried.

Letter of Geo. B. Roberts, president Pennsylvania Railroad Company, relative to cartmen's complaint. Ordered filed.

Letter of H. G. Young, assistant general manager Delaware and Hudson Canal Company, relative to Cobleskill crossing.

Commissioner Kernan moved that he be written that the arrangement, information of which is conveyed to the Board, will be satisfactory to it, if it is satisfactory to the village.

Letter of Albert Fink, relative to the cartmen's complaint. Ordered filed.

Letter of B. Thomas, general superintendent New York, Lake Erie and Western Railroad Company. Referred to Commissioner Rogers, to write the proper letter.

Communication from the State Board of Health. Laid on the table, and ordered that it be acknowledged with the statement that Board will take the matter under consideration.

Commissioner Rogers submitted a report on the Churchville matter. Adopted and ordered issued.

NEW BUSINESS.

Complaint of Farmers' Fertilizer Company of Syracuse. Ordered, that a copy be sent to Ashbel Green.

Complaint of J. W. Marchard et al. v. Elmira, Cortland and Northern Railroad Company. Usual course.

Answer of the Ulster and Delaware Railroad Company in the matter of the complaint of citizens of the town of Harpersfield. Usual course.

Resolution of Assembly, relative to section 88, chapter 140, Laws of 1850. Referred to Commissioner Kernan.

Commissioner Rogers moved that the Secretary purchase one copy of graphical method for the analysis of bridge strains by Charles E. Green, and one copy of the method of estimating the strains in bridges and roofs by means of diagram, by Robert H. Bow. Carried.

The matter of companies delinquent in sending bridge strain sheets to the Board was reported by Commissioner Rogers. Referred to Commissioner Rogers to communicate with them and to order the issue of citation if such be his judgment.

Ordered, that the Secretary issue orders to show cause in the matter of companies delinquent in sending quarterly reports.

Recess until 10 A. M., February 18, 1885.

AFTER RECESS, FEBRUARY 18, 1885.

The Board reconvened.

By unanimous consent, the following resolution was passed.

Resolved, That hereafter there shall be no smoking in the office between the hours of 9 A. M. and 5 P. M. Carried.

Commissioner Kernan offered a report on a bill to secure reports from foreign corporations. Laid over one week.

Adjourned.

WILLIAM C. HUDSON,
Secretary.

FEBRUARY 24, 1885.

The Board met pursuant to rule. Present — Commissioners Rogers and Kernan.

The minutes were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of J. H. Thompson, superintendent of Greenwich and Johnsonville Railroad Company, as to connection with the Boston, Hoosac Tunnel and Western Railroad Company.

Commissioner Rogers reported that Mr. Thompson had called and explained the situation substantially as set forth in his letter. Ordered, that the Secretary write for copy of agreement with the Troy and Boston Railroad Company.

Letter of Dow, Jones & Co., relative to quarterly reports.

Commissioner Kernan offered the following:

Resolved, That quarterly reports, when received, be immediately placed on file and be thereafter subject to public inspection; that copies thereof be sent by mail in order of application therefor, with a bill for the legal fees. Where returned for correction a copy shall be substituted on the file in place of the original, with the memorandum thereon "original returned for correction," and that the corrected report, when received and accepted, follow the same course. Adopted.

Ayes — Commissioners Rogers and Kernan.

Communication from John O'Donnell (Farmers' Operative Association). Usual course, R. M. Galloway, relative to heating cars. Ordered usual course.

Letter of Theodore Houston (New York, West Shore and Buffalo Railway Company), relative to Bethlehem crossing signal. Ordered filed.

Communication of Attorney-General, as to New Jersey and New York Railroad Company. Ordered filed.

James Rumrill (vice-president Boston and Albany Railroad Company), as to Greenbush crossing. Ordered filed.

Telegram of H. D. Titus. Ordered, that Secretary write that Board has inspected roads where the Corlies improved safety switch has been in operation, and were impressed with the fact that it was a good, durable switch. No reports of accidents have been reported from the switch.

Complaint of Mr. Brown et al. and answer of W. Seward Webb, New York Central Sleeping Car Company, as to "Arctic." Ordered usual course.

Letter of C. M. Depew, as to Greenbush crossing. Usual course.

Letter of G. Goddard, as to telegraph improvements. Referred to Commissioner Rogers.

Commissioner Kernan reported on the letter of Mr. Davies, counsel to Manhattan Elevated Railway Company, as to request of the Board to company to move for a modification of the injunction of court in the matter of a stairway at Second avenue, that he recommend that the company be not pressed to make a motion to vacate the injunction as previously recommended by the Board, but that it should be recommended that such a stairway is a public necessity, and that, when it can, it ought to be done for the convenience of the public.

Adjourned to Thursday, February 26, 12:30 P. M.

WILLIAM C. HUDSON,
Secretary.

FEBRUARY 26, 1885.

The Board met pursuant to adjournment. All present.

The minutes were read and approved.

The Secretary submitted unfinished business as follows:

Letter of J. R. Maxwell, with that of A. A. McLeod (Elmira, Cortland and Northern Railroad Company). Usual course.

Petition of farmers of Queens county as to complaint of Co-operative Union v. Long Island Railroad Company. Ordered filed.

Commissioner Kernan called up act as to foreign corporations. Laid over until March 3.

Commissioner Rogers called up the matter of the block system, etc., on Manhattan Elevated railway. Laid over until March 3.

Commissioner Kernan offered the following:

Resolved, That the New York, Lake Erie and Western Railroad Company be requested within thirty days to furnish to this Board a verified statement in tabular form covering the period of five years preceding January 1, 1885, showing the number of cans of milk and cream, respectively, transported by it to Jersey City during each month, the rate thereon and amount received therefor; the stations from which received, and the average distance carried; also by affidavit the details of the service involving extra expense, and the amount thereof, so far as the same can be stated or fairly estimated. Adopted.

The Board adjourned.

WILLIAM C. HUDSON,
Secretary.

MARCH 3, 1885.

Board met pursuant to rule. All present.

The minutes were read and approved.

The Secretary submitted the unfinished business as follows:

Letter of the New York, New Haven and Hartford Railroad Company, in answer to petition of residents of Twenty-fourth ward, New York city. Ordered, that Secretary write the New York Central and Hudson River Railroad Company and ask what its rules are as to whistling above the Harlem river within the city limits, so as to secure safety and prevent nuisance.

Answer of Boston and Albany Railroad Company (Mr. Rumrill, vice-president), to petition of Pratt and Church, of Greenbush. Ordered usual course, and that notice be sent that on Wednesday, March 11, 10 A. M., the Board will give an opportunity to either side to present any further facts or arguments at the office of the Board in the Capitol, and will at the same time proceed to inspect the location.

Answer of Ashbel Green to Farmers' Fertilizer Company. Ordered usual course, with a request to send a map of the premises and a statement of its legal claims to cross the road.

Letter of Julian T. Davies (Manhattan Elevated Railway Company). Ordered filed.

Letter of J. Hickson (Grand Trunk Railway Company). Ordered filed.

Letter of Fred. Hood (Newburgh, Dutchess and Connecticut milk case). Ordered, that

Secretary write that the Board refers him to its decision. The fact that the rate of thirty-five cents is not divided between the Newburgh, Dutchess and Connecticut and New York Central and Hudson River Railroad Companies does not affect the question as to what a reasonable through rate ought to be. The Board regrets that the producers and consumers of milk receive no benefit from the reduction recommended by the Board, and trusts they will insist on their right to share in the reduction.

Commissioner Rogers called up the matter of the proposed block system on the Manhattan Elevated Railway, and moved that the Manhattan company be written that in view of the large expense of carrying out the recommendations of the Board in reference to the block system, the Board, pending an investigation as to whether there may be other means of preventing collisions, suspends its recommendations.

Commissioner Kernan called up his draft of a bill relating to foreign corporations. Laid on the table.

NEW BUSINESS.

Letter of S. D. Coykendall, Kingston City Railroad Company, relative to draft of an act. Referred to Commissioner Kernan.

Letter of Alderman Gantley. Ordered Secretary send safety act.

Anonymous communication as to New York, New Haven and Hartford Railroad Company, discriminating in favor of Connecticut against New York, etc. Referred to Commissioner Kernan.

Ayes — Commissioners O'Donnell and Kernan.

Nay — Commissioner Rogers.

Letter of trustees of Victory village and answer of Boston, Hoosac Tunnel and Western Railway Company thereto. Ordered usual course as to answer.

Commissioner O'Donnell offered the following:

WHEREAS, It is alleged that the New York, Lake Shore and Western Railway Company have not paid their employees for a number of months, thereby causing inconvenience and suffering; therefore,

Resolved, That the president of such road be requested to inform this Board within ten days as to whether it be true or not that such corporation has not paid its employees, and if so, to what extent. Laid over for a week.

The Board took a recess until 10 A. M., March 5th.

AFTER RECESS, MARCH 5, 1885.

Board reconvened. All present.

Commissioner O'Donnell submitted a report upon the complaint of the Traders and Travelers' Union and the committee of merchants of New York city against the Trunk lines as to diversion of freight referred to him.

Commissioner O'Donnell moved that the Board go into executive session on the report. Carried.

In open session, Commissioner Kernan moved that the Board concur in the recommendations of the report. Carried unanimously, and as so concurred in, ordered issued.

Commissioner O'Donnell moved that the Secretary be instructed to write to Wagner Car Company as to fares improperly collected from Commissioner O'Donnell and E. C. McEntee, stenographer. Carried.

Adjourned.

WILLIAM C. HUDSON,
Secretary.

MARCH 10, 1885.

The Board met pursuant to rule. All present.

Minutes were read and approved.

The Secretary submitted the unfinished business.

Letter of Greenwich and Johnsonville Railroad Company, with copy of agreement between the same and the Troy and Boston Railroad Company. Referred to Commissioner O'Donnell.

Letter Farmers' Fertilizer Company with map. Referred to Commissioner Rogers.

Letter of J. M. Toucey, relative to whistling in the cities. Referred to Commissioner Rogers to write report.

Letter of George B. Keller, relative to the sleeping car "Arctic." Ordered filed.

Letter of John B. Grant, with reply of citizens of Harpersfield to answer of counsel for Ulster and Delaware Railroad Company. Ordered, that a hearing be set down for March 18th, 10 A. M., at the offices of the Board in the Capitol.

Assembly resolution and bill to which it referred. Referred to Commissioner Kernan.

Report of Accountant on Eighth Avenue Railroad Company. Ordered filed.

Ordered, that the matter of setting down a date of hearing of the Canajoharie accident be referred to Commissioner Rogers.

Ordered, that Secretary write to Utica, Clinton and Binghamton Railroad Company that in view of the fact that the company is complying with the recommendations of the Board to some extent and promising further compliance, the order to show cause is suspended.

Ordered, that the Secretary write J. E. Brazee, Middletown, Orange county, N. Y., that the Board would like him to make his statement more specific, that it will then determine and inform him as to its procedure, and that it would like to have the information he can give.

Recess taken.

AFTER RECESS, MARCH 11, 1885.

The Board met at 9:30 A. M., pursuant to adjournment. The Commissioners all present. Commissioner Rogers reported to the Board in the matter of the complaint of citizens of the Twenty-fourth ward of New York city relative to the whistling of locomotives passing over the tracks of the Harlem railroad. No objection being made, report adopted and ordered printed and issued.

The Secretary was directed to send a number of copies of said report to Assemblyman Shea when printed.

Commissioner Kernan reported on the resolution of the Assembly sent to the Board March 9 last, requesting the opinion of the Board on the act to establish the responsibility of railroad companies for damages by fire communicated from their locomotive engines. No objection being made, report adopted and ordered transmitted to the Assembly. Also, that Secretary send copy of the said report to Hon. S. S. Hawkins.

Commissioner Kernan presented a report in the matter of a communication from the Kingston City Railroad Company requesting the Board to recommend an amendment to chapter 585 of the Laws of 1880. Report accepted and adopted and the following communication ordered sent the railroad company:

"The Board regards the session of the Legislature as too far advanced to warrant its recommending any further railroad legislation. Should you deem it proper to present the proposed amendments the Board will send an opinion thereon to the Legislature if requested, pointing out the difficulties in the present acts to which you refer."

On motion adjourned.

WILLIAM C. HUDSON,
Secretary.

MARCH 17, 1885.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted unfinished business as follows:

Letter of H. M. Heald and accompanying abstracts (Long Island milk case). Referred to Commissioner Kernan.

Reports of Accountant on Sixth Avenue, Eighth Avenue and Forty-second Street Railroad Companies of New York city.

Commissioner Rogers offered the following:

Resolved, That reports or communications from employees of a road to the Board, made pending an investigation of any subject, be not given to the press for publication until a determination be reached by the Board thereon, unless otherwise ordered.

Commissioner O'Donnell offered the following amendment:

Providing that this rule shall not apply to any reports made by the Accountant to this Board, which shows the financial condition or dividends made by railroads, but that all such reports shall be, immediately on receipt, placed convenient and of easy access in the office, to the public press.

Commissioner Kernan moved to lay the whole matter on the table. Carried.

Ayes — Commissioners O'Donnell and Kernan.

Nay — Commissioner Rogers.

Commissioner Rogers offered the following:

WHEREAS, Reports have been received from the Accountant of this Board, resulting from his examination of certain horse railroads of the State which have not been read to this Board; and

WHEREAS, The publication of such reports without the Board's knowledge of their contents might be of serious detriment to the railroads in question; and

WHEREAS, Section 7 of chapter 853, Laws of 1882, provides as follows:

" * * But said Commissioners shall not be required to give publicity to such information, contracts, agreements, leases or other engagements, if in their judgment the public interests do not require it or the welfare and prosperity of railway corporations of this State might be thereby otherwise injuriously affected" * * *

Resolved, That the report of the Accountant be read to the Board, and a copy of the same be sent to the railroads before the same are given to the press.

Commissioner O'Donnell offered the following as an amendment:

To insert after "resolved" — That whenever reports are received from the Accountant of this Board by the Board in the due course of its business, such reports shall, as is done

with all other reports, be placed in the minutes of the Board, and that the press shall have free access thereto.

Commissioner Kernan moved to lay the matter on the table. Carried.

Ayes — Commissioners O'Donnell and Kernan.

Nay — Commissioner Rogers.

Commissioner Kernan offered the following :

That as reports are received from the Accountant of the Board as to the financial condition of railroads, the same be read before the Board, and that the same shall then become public records of the Board, unless otherwise ordered. Adopted.

Accountant's report of Forty-second Street Railroad Company was read and ordered as a public record. Also the Eighth avenue, and ordered as of public record.

Commissioner O'Donnell moved that the Eighth Avenue Railroad Company be cited to show cause upon what authority of law the issue of certificates were made. Laid on table.

Letter of Mr. Barrett, president of Victory village, relative to complaint of village against Boston, Hoosac Tunnel and Western Railway Company.

Commissioner Rogers moved that the Boston, Hoosac Tunnel and Western Railway Company be informed that the complaint is of running wildcat engines on Sunday, and that the president of the village be sent a copy of the safety act, and that his recourse thereunder be pointed out. Carried.

Letter of D. D. S. Brown, relative to the "Arctic." Ordered filed, and case closed.

NEW BUSINESS.

Complaint of Gilbert Dubois, of Ellenville, against New York, Ontario and Western Railway Company. Ordered usual course.

Complaint of Couper & Co. v. New York City and Northern Railroad Company. Ordered usual course.

Messrs. Gardner, Halloran, etc., appeared in the matter of the accident at Canajoharie. Recess.

AFTER RECESS, 8 P. M.

The Board reconvened. All present.

Commissioner Rogers presented a report in the matter of the complaint of the Farmers' Fertilizer Company v. The Syracuse, Ontario and New York Railroad Company. Adopted unanimously, ordered issued, and Secretary directed to send copy to complainant and the railroad company.

Commissioner Rogers also presented a report on the petition of residents of Greenbush, Beneselaer county, New York, to compel the New York Central and Hudson River Railroad Company and the Boston and Albany Railroad Company to construct a highway bridge over their tracks at Greenbush. Adopted unanimously, and Secretary ordered to send copy thereof to Col. Church and James H. Pratt, at Albany, and the railroad companies.

Commissioner O'Donnell presented his report in the matter of complaint of K. E. Bunnell v. The New York, Ontario and Western Railway Company. Ordered, that the report of Commissioners Rogers and Kernan, together with the report of Commissioner O'Donnell, be printed and issued, and that Secretary send copy of same to the complainant and the railroad company.

Commissioner Kernan presented a report as to the advisability of reducing the guaranteed ten per cent now allowed by law to railroad companies, in response to a resolution of the Assembly, and read the same.

Certain tables being yet in course of preparation, the Board took a recess on motion of Commissioner Rogers, until Wednesday morning, March 18, at 10 A. M.

AFTER RECESS, 10 A. M., MARCH 18, 1885.

Board reconvened. All present.

On the question of adoption :

Ayes — Commissioners Rogers and Kernan.

Nay — Commissioner O'Donnell.

Commissioner O'Donnell presented a minority report. Ordered issued and printed.

Adjourned.

WILLIAM C. HUDSON,
Secretary.

MARCH 24, 1885.

The Board met pursuant to rule. Present — Commissioners Kernan and Rogers. Commissioner O'Donnell informed the Board by telegraph that he would be absent.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of C. M. Depew with accompanying tracing, relative to Churchville crossing. Laid over.

Letters of C. M. Depew (New York Central and Hudson River Railroad Company), and Geo. H. Watrous (New York, New Haven and Hartford Railroad Company), relative to whistling in Twenty-third and Twenty-fourth wards, New York city. Ordered filed.

Letter of Farmers' Fertilizer Company. Ordered filed.

Letter of complaint against New York, Ontario and Western Railway Company. Referred to Commissioner Rogers.

Letter of E. D. Northrup. Ordered filed and that Secretary write that the Board has had the matter under consideration, and the difficulty is that no well and universally recognized device has been discovered, which remedies the evil complained of.

Letter of C. B. Meyer, with briefs. Referred to Commissioner Kernan.

Commissioner Rogers presented a report on the Canajoharie accident. Adopted and ordered printed and issued upon receipt of map of cross over.

Commissioner Kernan reported on the bill referred to the Board by the railroad committee of the Assembly. Report adopted and ordered sent to chairman of railroad committee.

Adjourned.

WILLIAM C. HUDSON,
Secretary.

MARCH 31, 1885.

The Board met pursuant to rule. Present — Commissioners Kernan and Rogers.

The minutes of the last meeting were read and approved.

Gen. G. W. Wingate appeared in the matter of the application of the Steinway Avenue and Hunter's Point Railroad Company, for an increase of capital stock.

The Secretary submitted under the rule the unfinished business, as follows:

Answer of Joel B. Erhardt, receiver New York City and Northern Railroad Company, to the complaint of Couper & Co. Referred to Commissioner Kernan.

Letter of J. E. Childs, superintendent New York, Ontario and Western Railway Company, in answer to complaint of too long hours on milk trains. Referred to Commissioner Rogers.

Report of Inspector, as to Utica and Black River railroad. Ordered filed.

Letters of H. L. Morrill and M. E. Barrett, as to Victory village. Ordered closed, complaint withdrawn.

Letter of E. D. Northrup. Referred to Commissioner Kernan.

Letter of John King, New York, Lake Erie and Western Railroad Company. Referred to Commissioner Kernan.

Letter of J. B. Kerr and Gilbert Dubois, relative to insufficient accommodation at Summitville. Answer sent to road with the remark that what Mr. Kerr complains of was the course pursued by Mr. Dubois, and that rarely or ever a complaint is made that is not preferred first to the road.

Letter of J. Crandall (Troy and Boston Railroad Company), as to warning signal posts. Referred to Commissioner Rogers.

Bill of T. J. Cowell for \$122.98. Ordered approved.

Letter of auditor of New York City and Northern Railroad Company. Referred to the Accountant.

Commissioner Kernan offered the following:

Resolved, That the Accountant be sent to New York with instructions to investigate the books of the Steinway Avenue and Hunter's Point, the Broadway and Bowery Bay, the Jackson and Steinway Avenue and the Astoria and Hunter's Point Railroad Companies, and to ascertain therefrom the cost of road and equipment, the amount of stock and bonds outstanding, and other facts bearing upon the propriety of approving the stock increase as requested, and report thereupon at the earliest possible moment. Carried.

Ordered, that the salary of E. C. McEntee, stenographer of the Board, be increased to \$800.

Letter of Chas. Parsons, Jr. (Rome, Watertown and Ogdensburg Railroad Company), was referred to Commissioner Kernan.

Letter of W. Nicholson, auditor of Fall Brook Coal Company. Referred to Commissioner Rogers.

Letters of John Allyn. Referred to Commissioner Kernan.
 Letter of R. M. Hasbrouck. Usual course.
 Letter of D. H. Andrews. Referred to Commissioner Rogers.
 Recess taken until three p. m.

AFTER RECESS, APRIL 1, 1885.

Board in session.
 Commissioner Rogers, on the matters referred to him, reported as follows:
 On the letter of J. Crandall, relative to warning signal posts. Adopted.
 On letter of J. E. Childs, relative to milk train service on the New York, Ontario and Western railway. Adopted.
 On letter of Boston Bridge Company. Adopted.
 On letter of Fall Brook Coal Company. Adopted.
 Commissioner Kernan reported on the matters referred to him as follows:
 On letter of Rome, Watertown and Ogdensburgh Railroad Company. Adopted.
 On letter of Couper & Co., relative to rates on New York City and Northern railroad. Ordered, that answer of road be sent to complainants.
 On letter of John King, relative to milk statistics. Adopted.
 On letter of John Allyn, as to East Williamsburgh and Flatbush Railroad Company. Adopted.
 On letter of E. D. Northrup, relative to the use of frogs on tracks. Adopted.
 The Secretary submitted report of Accountant on Third Avenue Railroad Company, New York city. Ordered as of public record.
 Board adjourned.

WILLIAM C. HUDSON,
Secretary.

APRIL 7, 1885.

The Board met pursuant to rule. Present—Commissioners Kernan and Rogers.
 The minutes were read and approved.
 The Secretary submitted the unfinished business as follows:
 Letter of Couper & Co. relative to complaint as to rates on the New York City and Northern Railroad. Referred to Commissioner Rogers.
 Resolution of Chamber of Commerce as to diversion of freight. Referred to Commissioner Kernan.
 Letter of W. H. Hawkins, relative to Melrose station. Referred to Commissioner Rogers.
 Letter of H. L. Morrill, relative to complaint of R. M. Hasbrouck. Usual course.
 Letter of E. H. Freeman, with affidavits accompanying, relative to Chenango street (Binghamton) crossing. Ordered filed.
 Letter of E. J. Winslow. Ordered, that Secretary write that Board would regard butter an agricultural product; that Board has not gone further than to provide table H, and has left it to railroad companies to classify under the divisions and to send a copy of new report and book of instructions.
 Petition of Clinton L. Meriam and others against Utica and Black River Railroad Company. Usual course.
 Letter of J. E. Childs, superintendent New York, Ontario and Western Railway Company, relative to milk service on said road. Referred to Commissioner Rogers, and Secretary ordered to write to Mr. Childs to explain discrepancy.
 Assembly resolution requiring investigation of Long Island City and Calvary Cemetery Railroad Company. Referred to Commissioner Kernan.
 Report of the Accountant upon the financial condition of Steinway system.
 Commissioner Rogers reported upon the application of the Steinway Avenue and Hunter's Point Railroad Company for an increase of capital stock, approving the same. Adopted.
 Recess until April 8.

AFTER RECESS, APRIL 8, 1885.

Board in session.
 Commissioner Rogers reported on the case of Couper & Co. v. New York City and Northern Railroad Company. Report adopted and ordered issued.
 The matter of the Assembly resolution, as to the Long Island City and Calvary Cemetery Railroad Company, was referred to Commissioner Kernan.
 Simon Stern, counsel for merchants, with W. F. King, John Gibbs, F. B. Thurber and others appeared and were heard on the diversion of freight bill. Mr. C. M. Depew also appeared and expressed a willingness on the part of the New York Central and Hudson River Railroad Company (provided the pending bill before the Legislature should be with-

drawn) to accede to the request of the merchants of the city of New York in regard to the diversion of freight so far as first-class freight was concerned, thus conforming to the recommendations of the Board, of March 4, 1885, to that extent, viz.: that the various freight lines "shall hereafter omit from their bills of lading the clause which permits freight to be diverted and also that which compels the shipper to look to the road for redress upon which loss or damage occurs."

Upon this expression of Mr. Depew being conveyed to the committee of merchants, a conference was held between him and them before this Board, a satisfactory agreement was reached and the bill withdrawn.

Mr. P. J. Gleason was heard in the matter of the Assembly resolution as to his road.
Adjoined.

WILLIAM C. HUDSON,
Secretary.

APRIL 14, 1885.

The Board met pursuant to rule. All present.

Minutes of the last meeting were read and approved.

Judge Schoonmaker, on behalf of the Ulster and Delaware Railroad Company, X. C. Moak and Jno. P. Grant, on behalf of the citizens of Harpersfield, were heard in the matter of the complaint of the citizens of Harpersfield v. Ulster and Delaware Railroad Company.

The Secretary submitted the unfinished business, under the rule:

Letters of J. E. Childs, relative to the milk service on the New York, Ontario and Western railway. Referred to Commissioner Rogers.

Letter of J. F. Maynard, vice-president Utica and Black River Railroad Company. Usual course.

Letter of John King, president New York, Lake Erie and Western Railway Company. Laid over until next meeting.

Letter of Mr. Wait, secretary West Williamsburgh and Flatbush Railroad Company. Ordered, that Mr. Allyn be given the information received.

Letter of Mr. Chamberlain, relative to patent coupler. Ordered, that a copy of the safety act be sent to him, and that he be requested to send a description of his coupler, with model, if he has one.

Letter of A. Schoelkoff, complaining of the New York Central and Hudson River Railroad Company. Ordered, that a copy of his letter be sent to said road, and also that it be notified that the premises of depot at Suspension Bridge will be inspected April 22d, at 10 A. M.

Commissioner Kernan submitted a report on the Long Island milk case. Ordered printed.

Commissioner Rogers submitted a report in the matter of the complaint of citizens of Schaghticoke v. Troy and Boston Railroad Company. Adopted, ordered printed and issued.

Commissioner Rogers submitted a report of the recent inspection of the Lebanon Springs railroad, and his action in demanding immediate strengthening of the bridges and the reduction of speed to fifteen miles per hour. Report accepted and action approved.

The Secretary submitted the verbal complaint of Mr. Shea, that the New York, New Haven and Hartford Railroad Company had failed to comply with the recommendations of the Board. Secretary ordered to write to New York, New Haven and Hartford Railroad Company as to the complaint.

The Secretary submitted the bill of Weed, Parsons & Company, for printing five hundred copies of annual report, at \$2,080.58. Ordered approved.

The Board adjourned until Monday, April 20th, 8 P. M.

WILLIAM C. HUDSON,
Secretary.

APRIL 20, 1885.

The Board met pursuant to adjournment. All present.

The minutes were read and approved.

Commissioner Rogers submitted the fact that the New York, West Shore and Buffalo Railway Company had not yet filed its quarterly report for the quarter ending December 31, 1884. Ordered, that the Secretary issue an order to show cause, on Tuesday, April 28th, why the same has not been filed.

Commissioner Rogers reported the accident occurring at Diefendorf Hill. Hearing set down for Tuesday, April 28th. Referred to Commissioner Rogers.

The Secretary submitted the unfinished business, as follows:

Letter of C. L. Merriam in reply to answer of Utica and Black River Railroad Company to his complaint and including new complaint. Ordered, that the new complaint be sent the road.

Letter of R. M. Hasbrouck, relative to the complaint as to ticket selling at Reynolds station, on the Boston, Hoosac Tunnel and Western railway. Ordered, that the communication be sent to the company and that Secretary write that it is a matter which, in the opinion of the Board, should be adjusted without the necessity of a hearing upon the part of the Board.

Letter of A. F. Saunders. Ordered, that Secretary write there is no statute, that the Legislature struck out the provision covering such matters recommended by the Board, and that any complaint of unreasonable delay will be entertained by the Board.

Letter of John King (New York, Lake Erie and Western Railroad Company), relative to statistics of Erie road called for by the Board. Laid over.

Letters and papers submitted by Judge Earle. Referred to the Secretary to examine and report to the Board.

Commissioner Kernan offered the following:

Resolved, That copies of the reports of the Accountant as to the New York City street railroads be sent to the companies, and that they have thirty days in which to reply thereto, or to point out errors. Carried.

The Board adjourned.

WILLIAM C. HUDSON,
Secretary.

APRIL 28, 1885.

The Board met pursuant to rule. All present.

Minutes were read and approved.

Commissioner O'Donnell moved that new business be immediately taken up. Agreed to.

Commissioner O'Donnell offered a message to the Legislature relative to the bills before that body recommended by the Board, and moved its adoption. Laid temporarily upon the table.

Commissioner Rogers submitted a report on the resolution of the Chamber of Commerce. Accepted, copies ordered to be made: laid on table.

The Secretary submitted the unfinished business under the rule:

Letter of S. T. Street, relative to automatic signals. Secretary ordered to write that the Board would like to see the device in practical operation, and that as soon as it is notified that it is in such operation it will be pleased to examine it. Until it views these devices in practical operation it deems it inexpedient to approve or disapprove of any.

Letter of E. L. Langford, relative to inspection of Brooklyn, Flatbush and Coney Island Railroad. Ordered filed.

Letter of Mrs. Siedel. Ordered, that she be written that the Board would like to see the coupler of which she writes in practical operation, and when it is notified that the device is in such operation it will be pleased to examine it. Until such devices are viewed in practical operation the Board deems it inexpedient to approve or disapprove any.

Letter of E. G. Hart, relative to foot-guards. Ordered, that the Buffalo, New York and Philadelphia Railroad Company be written, to ask how extensively this foot-guard has been used, and what the results of the practical operation seem to be, and that Mr. Hart be written that the Board will look into his matter.

Letter of Mr. Weidner. Ordered to write, asking what is meant by his letter, and to what he is referring to.

Letter of J. E. Brazee. Referred to Commissioner Rogers.

Letter of W. H. Hawkins, relative to Schaghticoke crossing. Ordered filed.

Letter of John Allyn, relative to the West Williamsburgh and Flatbush Railroad Company. Ordered filed.

Letter of R. A. Vervalen, relative to the Haverstraw station. Ordered filed.

Petition of A. R. Saunders, relative to obstruction of crossings by trains. Usual course.

Petition of H. F. Martineau, asking to be relieved from the censure of the Board. Laid over.

Commissioner Rogers submitted that the quarterly report of the New York, West Shore and Buffalo Railway Company for the quarter ending December 31, 1884, has been made.

The Troy and Boston Railroad Company was ordered to show cause on the 5th of May why the quarterly report for the quarter ending December 31 had not been filed.

Letter of New York, West Shore and Buffalo Railway Company, relative to the Bethlehem crossing. Ordered filed and case closed.

Letter of D. Hart and Mr. Quinby, relative to Harlem station. Ordered usual course.

Letter of William Abbott. Referred to Commissioner Rogers with power.

Commissioner O'Donnell called up his report on a message to be sent to the Legislature relative to the bills before it recommended by the Board. Adopted as the message of the Board and ordered sent to the two houses of the Legislature.

Adjourned.

WILLIAM C. HUDSON,
Secretary.

MAY 5, 1885.

The Board met pursuant to rule. All present.

The minutes were read and approved.

The Secretary laid the report of the Accountant as to the Brooklyn City Railroad Company before the Board. Ordered a public record.

Also the report of the Second Avenue Railroad Company. Ordered a public record.

The Secretary laid the unfinished business before the Board, as follows:

Letter of C. B. Meyer, as to the Long Island milk case.

Commissioner Kernan called up his report on this case and moved its adoption. Carried. Aye—Commissioner Kernan.

Aye as to conclusion—Commissioner O'Donnell.

Nay—Commissioner Rogers.

Letter of J. E. Merrill, treasurer Troy and Boston Railroad Company, as to quarterly report. Laid over until the 12th.

Letter of H. L. Morrill, as to the complaint of R. M. Hasbrouck.

Commissioner Kernan moved that the Secretary notify Mr. Hasbrouck and the company to send any further facts and arguments they may desire to present in writing, within ten days, and that the Board will then decide the matter. Carried.

Letter of L. Curry, auditor New York, Chicago and St. Louis Railroad Company. Ordered, that Secretary write that two quarterly reports will be required.

Letter of J. F. Maynard. Ordered usual course.

Anonymous communication relative to New York, New Haven and Hartford Railroad Company. Ordered filed with anonymous communications.

Petition of residents of Dutchess county against Newburgh, Dutchess and Connecticut Railroad Company. Ordered usual course.

Letter of George O. Mernbery. Ordered usual course.

Petition of residents of Constableville v. Utica and Black River Railroad Company. Ordered usual course.

Commissioner Rogers submitted a report on the case of employees against the New York, Ontario and Western Railway Company. Adopted and ordered issued.

Commissioner Rogers called up the report on the Chamber of Commerce resolution. Laid over one week.

Commissioner Kernan submitted a report in the matter of the complaint of the residents of Suspension Bridge v. New York Central and Hudson River Railroad Company and the New York, Lake Erie and Western Railroad Company. Adopted and ordered issued.

Commissioner Kernan submitted a report on the Niagara Street Railway Company. Adopted and ordered issued. Laid on table for a month.

Commissioner O'Donnell moved that the Secretary write to the parties in interest to inquire what, if any thing, has been done in the Schenectady and Herkimer depot matters. Recess taken until 1:30 P. M.

AFTER RECESS, 1:30 P. M.

Board reconvened.

Commissioner Kernan presented a report in the matter of the petition of H. F. Martineau to be released from the censure of the Board. Adopted and ordered issued.

Secretary submitted the expense bill of T. W. Spencer for \$122.44. Ordered approved.

Bill of American Express Company, \$197.44. Ordered approved.

Bill of National Express Company for \$245.58. Ordered approved.

Bill of Argus Company, \$23.40. Referred to Secretary with power.

The Board adjourned.

WILLIAM C. HUDSON,
Secretary.

MAY 12, 1885.

The Board met pursuant to adjournment. All present.

The minutes were read and approved.

Hon. A. Schoonmaker, H. Dimmick and Thomas Cornell, for the Ulster and Delaware Railroad Company; and N. C. Moak and John F. Grant, for the town of Harpersfield, appeared and were heard in the matter of Harpersfield v. Ulster and Delaware Railroad Company.

Michael Commons was heard in the matter of the recent accident at Dieffendorf on the New York, West Shore and Buffalo railway.

The Secretary laid before the Board the unfinished business:

Petition of residents on line of the New York, Lake Erie and Western railroad as to the condition of the fences along the line and the answer of road thereto. Ordered usual course of answer, with request that the Board be informed after a reasonable time if the promises of road have been carried out.

Letter of E. B. Mitchell. Ordered to lie over one week.

Letter of Fred Hatch, clerk of Cortland county. Usual course.

Letter of H. L. Morrill (Boston, Hoosac Tunnel and Western Railway Company). Laid over one week.

Letter of J. R. Maxwell (Long Island Railroad Company). Ordered filed.

Letter of Chas. Parsons. Ordered, that the letters be sent to complainant and the case ordered closed.

Letter of D. E. Weidner. Ordered, that the President of the Produce Exchange be written to learn under what authority A. D. Sterling makes inspections, and whether he is employed by the roads.

Petition of New Hartford. Ordered usual course.

Letter of John F. Canavan, relative to Rouse's Point. Ordered, that it be sent to Ogdensburg and Lake Champlain Railroad Company, and referred to Commissioner O'Donnell.

Letter of Mr. Gatchell. Filed with papers relating to Hart's foot-guard.

Letter of Corning Glass Works. Ordered usual course.

Letter of Thomas Hogan, relative to village of Geddes.

By Commissioner Kernan:

Resolved, That in all cases where complaints are made as to dangerous or unprotected crossings, the Secretary shall advise the complainants of section 3, chapter 489, Laws of 1884, under which relief may be obtained. Carried.

Letter of J. E. Merrill (Troy and Boston Railroad Company). Laid over for one week.

Bill of T. J. Dysen for \$100. Ordered approved.

The report of the Accountant on the Broadway Railroad Company of Brooklyn. Ordered a public record.

In the matter of the Dieffendorf accident. Ordered, that the signal tender at Dieffendorf Hill be notified to be before Board Tuesday at 12 m.

Ordered, that the New York, West Shore and Buffalo Railway Company be notified that electric bell at Bethlehem crossing rings all the time.

Commissioner Rogers called up his report on the resolution of the Chamber of Commerce, approving bill pending before the Legislature to prevent diversion of freight. Ordered printed.

Adjourned.

WILLIAM C. HUDSON,
Secretary.

MAY 19, 1885.

The Board met pursuant to rule. Present — Commissioners Kernan and Rogers.

The minutes of the last meeting were read and approved.

The Chairman announced a telegram from Commissioner O'Donnell, stating that he would be present at 4 p. m.

The Secretary laid before the Board the unfinished business:

Letter of secretary of the New York Produce Exchange, relative to the status of Mr. A. D. Sterling. Ordered, that the Secretary reply to D. Wiedner that the Board has no jurisdiction in the matter of grain inspection, and send copy of letter of Produce Exchange to him.

Letter of H. L. Morrill, relative to the complaint of R. M. Hasbrouck. Referred to Commissioner Kernan.

Letter of C. L. Kimball, relative to complaint of John D. Wiug. Ordered extension of time granted.

Letter of R. M. Olyphant (Delaware and Hudson Canal Company), relative to the petition from New Hartford. Ordered filed.

Letter of M. F. Reynolds, relative to quarterly report of Troy and Boston Railroad Company. Laid over one week.

Letter of E. D. Northup, relative to use of whistle signals by yardmen. Ordered, that Secretary write to Cincinnati Southern Railroad Company to send us copies of the rules in reference to use of whistle and inquire as to the practicability and benefit of the same.

Letter of E. S. Hart, relative to foot-guards. Ordered, that Mr. Toucey (New York Central and Hudson River Railroad Co. be written and asked if he is willing to permit Mr. Hart to make a test on the New York Central and Hudson River railroad, and that Board would be glad to have it done.

Letter of P. Van Valkenburgh, relative to patent coupler. Ordered usual answer.

Letter of John Allyn, relative to the Traders' Despatch.

Letter of L. L. Barney, relative to the condition of the Syracuse and Northern Railroad Company, referred from Executive chamber. Referred to Mr. Spencer.

Letter of H. S. DeForest, mayor of Schenectady, relative to new depot at that place. Ordered filed.

Circular of Master Car Builders' Association. Ordered filed.

Letter of H. L. Morrill, relative to Reynolds station, taken from table and referred to Commissioner Kernan.

Letter of E. B. Mitchell, attorney of Herkimer, called up. Ordered, that Secretary write again to New York Central and Hudson River Railroad Company.

Commissioner Rogers laid before the Board sundry verbal complaints of matters relating to the Hudson river depot in New York, Forty-second street, and submitted a draft of a letter to the road. Ordered adopted and sent.

Commissioner Rogers offered the following resolution:

Resolved, That the Secretary be instructed to present at the next meeting of the Board, Tuesday, May 25th, a statement of all pending cases and their present status, in which issue has been joined, and of all cases in which decisions have been made since the close of the last fiscal year, as to whether the recommendations of the Board have been complied with. Carried.

The Accountant laid before the Board the matter of the roads delinquent in sending quarterly reports to the Board.

Commissioner Rogers moved that notice to show cause why the delinquents should not be reported to the Attorney-General on June 2d, 12 M., be sent to the delinquent companies. Carried.

The Accountant submitted a letter from the Manhattan Elevated Railroad Company relative to its quarterly reports. Ordered, that the Accountant go to New York relative thereto, and that he have power to extend the time of making the report, if in his judgment it be necessary.

Commissioner Rogers submitted the report of the Inspector as to the condition of the Syracuse, Ontario and New York Railway Company. Referred to Commissioner Rogers.

Commissioner Kernan submitted a letter from A. Schoelkoff (Niagara Falls and Suspension Bridge Railway Company). Ordered, that a copy be sent to Mr. Toucey with the statement that there seems to be so much danger connected with the present condition of things that a speedy adjustment seems to be necessary.

Recess taken until 4 P. M.

AFTER RECESS, 4 P. M.

Board reconvened.

Commissioner Rogers called up his report upon the resolution of the Chamber of Commerce.

Commissioner Kernan moved that the report be laid upon the table for further consideration, and that a copy be sent to the Chamber of Commerce. Carried.

In the matter of the complaint as to the Syracuse and Northern railroad (Rome, Watertown and Ogdensburgh Railroad Company). Ordered, that a copy be sent to the road, and that instructions be sent to the Inspector to inspect as soon as possible.

Commissioner Kernan offered the following:

Resolved, That the Secretary be directed to prepare and furnish certified copies of all quarterly reports to those applying therefor on payment of the fees fixed by law. When reports are returned for correction, such fact shall be noted in writing across the face of the copy. Carried.

Adjourned.

WILLIAM C. HUDSON,
Secretary.

MAY 25, 1885.

At roll call Commissioner Rogers responded.

No quorum being present, the Board adjourned.

WILLIAM C. HUDSON,
Secretary.

JUNE 2, 1885.

The Board met pursuant to rule. Present—Commissioners Kernan and Rogers.

The minutes of the last meeting were read and approved.

The Secretary submitted a telegram from Commissioner O'Donnell announcing that he would be present the following day.

Mr. Nelson, of the Northern Central Railroad Company, accompanied by G. M. Diven, as counsel, appeared in answer to citation as to strain sheets.

H. G. Young, assistant general manager, appeared in answer to citation as to strain sheets.

The Secretary submitted a letter from the Governor, asking an inspection of railroad bills then before him.

The Secretary laid before the Board the unfinished business:

Letter of E. H. Van Horne, relative to the complaint of G. O. Mernbery. Ordered, that a copy of the letter be sent to complainant, and that he be requested to advise the Board within a reasonable time whether the promises made by road have been performed.

Letter of J. M. Toucey, relative to Hart's foot-guard. Ordered, that Mr. Toucey be asked whether the wedge-shaped block is in general use on the New York Central and Hudson River railroad, and if its results are satisfactory. Also, to inform Mr. Toucey that

the Board does not desire to have him test the Hart system if, in his judgment, the device is not practicable.

Letter of Fall Brook Coal Company, relative to the Corning Glass Works' complaint. Ordered usual course.

Letter of C. L. Whitaker, with accompanying statement of highway commissioner. Ordered, that Mr. Whitaker be requested to advise the Board, if the promises made are not performed within a reasonable time.

Letter of C. M. Depew (New York Central and Hudson River Railroad Company), relative to Suspension Bridge depot. Ordered usual course, and ask complainants to advise Board if the work is not performed within a reasonable time.

Letter of J. E. Childs (New York, Ontario and Western Railway Company), relative to milk service. Ordered communication be sent to complainant, and that the road be informed that the Board has determined to suspend the recommendation.

Letter of J. P. Ord (Syracuse, Ontario and New York Railway Company), relative to the condition of the road. Ordered, that the Board be informed that when the improvements promised are made, and the Board is notified of the same, it will inspect and add a statement to the report already made before its publication. In the mean time it is advised that the speed be not greater than absolute safety will permit.

Letter of C. H. Parsons, Jr. (Rome, Watertown and Ogdensburgh Railroad Company), relative to the complaint of dangerous condition, made by L. L. Barney. Ordered, that complainant be informed that Board has inspected the road and finds that it is not in a very dangerous condition, unless trains are run at a very high rate of speed; that its roughness is due to a lack of ballast, upheavals by reason of frost coming out of ground, and poor ties; that the attention of the railroad authorities has been called to the existing condition, and promises have been made to place the road in good condition during the present season.

Letter of F. F. Chambers (Syracuse, Binghamton and New York Railroad Company), relative to complaint of Cortland as to crossings. Ordered, that road and complainant be notified that a member of the Board will visit Cortland and inspect the crossings, Wednesday, June 10th. Referred to Commissioner Kernan.

Letter of C. M. Depew, as to platform at Pleasantville station. Ordered, that complainant and Health Board be notified, and that the complainant be requested to advise the Board when improvements were made.

Letter of C. M. Depew (New York Central and Hudson River Railroad Company), relative to complaint of cartmen. Ordered filed.

Letter of C. M. Depew (New York Central and Hudson River Railroad Company), relative to changes in Forty-second street depot. Referred to Commissioner Rogers.

Letter of Committee of Board of Trade and Transportation. Referred to Commissioner Rogers.

Letter of J. M. Toucey (New York Central and Hudson River Railroad Company), as to Niagara Falls and Suspension railroad. Ordered, that the Secretary write Mr. Schoelkoff that Mr. Toucey writes that the roads are in negotiation and that he should advise the Board within reasonable time if the work is done, if not, then the Board will take action.

Communication of village of Adams v. Rome, Watertown and Ogdensburgh Railroad Company. Ordered closed.

Letter of Newburgh, Dutchess and Connecticut Railroad Company relative to complaint of Mr. John D. Wing. Ordered usual course.

Application of the Albany railway for an increase of capital stock.

Commissioner Kernan offered the following resolution:

Resolved, That the Accountant be instructed to examine into and report upon the financial condition of the Albany railway, to ascertain from the books thereof the cost of road and equipment, the amount of stock and bonds outstanding, and other facts bearing upon the propriety of approving the increase of stock applied for. Carried.

Commissioner Kernan called up the letter of John King (New York, Lake Erie and Western Railroad Company), of April 7th, and moved that the Secretary write him that the answer promised in his letter of April 7th to the communication of the Board of April 1st, has not been received. The Board desires to be advised, what, if any, action he proposes to take as to the matter, at once.

Commissioner Rogers submitted a report in the matter of the accident at Dieffendorf Hill. Adopted. Ordered printed and issued.

Commissioner Rogers submitted an answer to the resolution of the New York Board of Trade and Transportation, referred to him. Laid over one week.

The Secretary submitted a report of cases treated of in former annual reports but not finally disposed of, and cases received since September 30, 1894, and still pending. Ordered entered as closed on register: Nos. 17, 41, 90, 118, 114, 123, 133, 92, 105, 122, 139, 149, 150, 152, 153, 159, 161, 164, 165, 166, 167, 168, 172, 173, 178, 181.

In the case (No. 180) of Village of Hamburg v. New York, Lake Erie and Western Railroad Company: Ordered, that Secretary write what, if any, action has been taken by road to the end of complying with the recommendations of the Board.

In the case of A. B. Benham (No. 14). Ordered, that Secretary write that the cattle guard laid down is of the kind recommended by the Board and is regarded preferable to the old form wherein cattle are likely to fall. The Board is surprised it is not satisfactory. It is not within the province of the Board to say whether there is liability of the road or not.

In the case of Cobleskill v. Delaware and Hudson Canal Company (No. 147). Ordered, that the Secretary write the trustees of the village that the Board is informed that the road wrote the trustees asking if they would unite with the road in a plan to remedy the evil complained of, by changing the bridge and highway. The road complains that no answer has been received and says if the trustees are not willing as to this plan the road stood ready to comply with the recommendations of the Board to place a flagman there, and to ask the trustees to advise the Board of their action in the matter.

In the case of K. E. Bunnell (No. 97). Consideration laid over for one week.

In the case of S. & J. W. Post (No. 102) v. Long Island Railroad Company. Ordered, that Secretary write what, if any, action the road proposes to take under the recommendations of the Board.

In the case of Charles Haines (No. 151). Ordered, that Secretary write road for answer.

In the case of village of Herkimer (No. 157). Referred to Commissioner Kernan.

In the case of Farmers' Cooperative Union (No. 168). Hearing set down for June 17, at 10 A. M., Chamber of Commerce, New York city. Ordered, that parties in interest be notified.

The case of Gilbert Du Bois (No. 171). Ordered, Secretary write asking if improvements have been made and asking that Board be advised.

Recess taken until 10 A. M., June 8.

AFTER RECESS, 10 A. M., JUNE 8.

Board reconvened. Present — Commissioners Kernan, Rogers and O'Donnell.

Secretary laid before Board report of the bridge engineer, showing that every road cited to appear had responded by strain sheet or explanatory letter. Accepted.

Ordered, that Secretary write the New York, West Shore and Buffalo Railway Company that the Board is not disposed to insist on an immediate compliance, but, in view of the intention of the road to have strain sheets made as soon as practicable for its own records and to furnish the Board with duplicates, the Board will postpone the matter for the present.

The case of New York, Syracuse and Ontario Railway Company laid over for one week.

The Accountant laid several matters before the Board, as follows:

Letter of Bradford, Eldred and Cuba Railroad Company, and answer to same. Approved.

Letter of P. B. McLennan (New York, West Shore and Buffalo Railway Company), as to quarterly report. Accepted.

Letter of Lackawanna and Pittsburg Railroad Company, with promise of early filing of report. Accepted.

Letter of Lauterbach and Spingarn, counsel of South Ferry Railroad Company. Ordered, no personal appearance required if reports are furnished.

Letter of Staten Island Rapid Transit Company. Ordered, that separate reports of lessor and lessee roads not required.

Letter of Springville and Sardinia Railroad Company. Ordered, that they furnish reports, that the road had not been in operation during winter and were not now operating.

Letter of Tioga Railroad Company. Accountant reported that the citation had been served on an officer who had resigned and that he had written Mr. Little, comptroller of the Erie Railroad Company, a part of which system since March 1 the Tioga railroad is, about it. Laid over.

Letter of Staten Island Shore Line. Ordered, that quarterly reports be made.

Letter of Middletown and Crawford Railroad Company, lessor, as to quarterly report. Ordered excused.

Ayes — Commissioners Rogers and Kernan.

Nay — Commissioner O'Donnell.

Statement of New York, Ontario and Western Railway Company as to error in quarterly report for quarter ending December 31, and requesting leave to substitute corrected report. Ordered, that if road desires, the corrected report will be filed with the original as corrected report, but the original cannot be returned.

The Accountant reported his visit to Manhattan Railway Company as to the form of its quarterly reports, and reported that it had filed three reports as it had previously done. He also reported the delinquency of the Troy and Boston Railroad Company. Ordered, that the delinquency be reported to the Attorney-General for his consideration and action.

Ordered, that the Secretary be instructed to ask the Attorney-General what action he proposes to take in the matter of the Utica and Black River Railroad Company cases.

Board adjourned.

WILLIAM C. HUDSON,
Secretary.

JUNE 9, 1885.

The Board met pursuant to rule. Present — Commissioners Kernan and Rogers.

The minutes of the last meeting were read and approved.

The Secretary laid before the Board the unfinished business as follows:

Letter of Robert Sealey, secretary Broadway Railroad Company of Brooklyn, N. Y. Ordered filed.

Letter of J. A. Buchanan, counsel New York, Lake Erie and Western Railroad Company, relative to the statistics of milk traffic called for by the Board. Laid over one week.

Letter of J. A. Buchanan, counsel of New York, Lake Erie and Western Railroad Company, relative to the building of the Hamburg depot. Ordered, that the Secretary write that the Board desires a copy of the lease between the New York, Lake Erie and Western and the Buffalo and South Western Railroad Companies sent to the Board forthwith.

Letter of George Wilson (Chamber of Commerce). Ordered filed.

Letter of Charles Parson, Jr. (Rome, Watertown and Ogdensburgh Railroad Company), relative to inspection of Syracuse Northern branch. Ordered filed.

Letter of K. E. Bunnell, laid over one week. Ordered laid over another week.

Letter of S. D. Hallowell, secretary Bushwick Railroad Company. Ordered, Secretary write to ask under what section of chapter 252, Laws of 1884, the document is filed with the Board, and for what purpose.

Letter of Stanley Dexter, relative to delay in cashing coupons in office of the New York, Lake Erie and Western Railroad Company. Ordered usual course.

Letter of J. I. Warner of Catskill. Ordered, that the Secretary write that so far as the Board knows, the new corporation can form under the name of the Catskill Mountain Railway Company. There seems to be no prohibition against it.

Commissioner Rogers submitted a report by letter to the resolution of the New York Board of Trade and Transportation. Ordered issued.

Commissioner Kernan submitted a report in the matter of R. M. Hasbrouck v. Boston, Hoosac Tunnel and Western Railway Company. Ordered adopted and issued.

Commissioner Kernan moved that the hearing in the matter of the application for an increase of capital stock of Sixth Avenue Railroad Company, be set down for 2 P. M., June 17th, at Chamber of Commerce, New York city.

Commissioner Kernan submitted a reply to the letter of C. M. Depew, as a report on the Herkimer depot matter. Adopted and ordered sent.

Commissioner Kernan submitted a letter of Thos. C. Miles, relative to the cab electric system. Ordered, that the Secretary write him, that Board will visit the Staten Island road on the 18th inst., and will be at the foot of Whitehall street at 10 A. M.

Communication from the Governor, relative to Assembly bill 129, as to fares on the Stony Clove and Catskill, and the Catskill Mountain railroads, and requesting a hearing on the same. Referred to Commissioner Rogers.

Recess taken until June 11, 1885.

AFTER RECESS, JUNE 11, 1885.

Board reconvened.

Commissioner Rogers presented a report on Assembly bill 129, referred to the Board by the Governor.

Commissioner Kernan offered the following resolution :

WHEREAS, The request from the Governor for action by this Board under section 9, chapter 353, Laws of 1882, upon Assembly bill 129, requires the report of this Board to be transmitted on or before June 13, 1885; therefore,

Resolved, That the rules be suspended for one day, and the report submitted by Commissioner Rogers be adopted and ordered transmitted to the Governor.

There being no objection, the resolution was considered. Carried.

Ayes — Commissioners Rogers and Kernan.

Adjourned.

WILLIAM C. HUDSON,
Secretary.

JUNE 16, 1885.

The Secretary called the roll at 10:15 A. M., and there being no response, the Board stood adjourned to June 23, 1885.

Commissioner O'Donnell appeared in the afternoon.

WILLIAM C. HUDSON,
Secretary.

JUNE 23, 1885.

The Board met pursuant to adjournment. Present — Commissioners Kernan and Rogers.

The minutes were read and approved.

The Secretary laid before the Board the unfinished business, as follows :

Letter of H. L. Morrill (R. M. Hasbrouck, etc., v. Boston, Hoosac Tunnel and Western Railway Company). Case ordered closed.

Letter of Corning Glass Works in reply to a letter of Fall Brook Coal Company. Referred to Commissioner Kernan.

Complaint of James Merriman. Ordered usual course. Board to visit the point complained of.

Letter of J. Edward Merrill, treasurer Troy and Boston Railroad Company, referred to the Board by the Attorney-General. Ordered, that the Secretary reply to the Attorney-General that this road has made so many similar promises only to break them, that the Board places no further reliance upon them. The report is not yet filed.

Letter of J. E. Brazee (New York, Ontario and Western railway milk service). Ordered, Secretary write that, in view of the contradictory statements of Mr. Brazee and Superintendent Childs, the Board does not feel disposed to go further in the matter unless a formal and public complaint is made to the Board.

Letter of J. King (New York, Lake Erie and Western Railroad Company), transmitting the lease between the New York, Lake Erie and Western and the Buffalo and South-western Railroad Companies.

By Commissioner Kernan:

WHEREAS, The Board heretofore, on December 30, 1884, made a recommendation in the matter of the petition of the citizens of Hamburg, Erie county, for a sufficient station on the Buffalo and South Western railroad, leased and operated by the New York, Lake Erie and Western Railroad Company, a certified copy of which is hereto attached and forms a part hereof; and

WHEREAS, The said road has neglected to comply with such recommendation or make the necessary improvements and changes, although a reasonable time has long since elapsed:

Resolved, That the Secretary be directed to transmit the facts and papers in the case to the Attorney-General for his consideration and action and that a copy of this resolution be transmitted to the company and the complainants. Carried.

Letter of John King, relative to the complaint of Stanley Dexter (delay in cashing coupons). Usual course.

Letter of Austin Corbin, relative to milk complaint. Laid over one week.

Complaint of citizens of the town of Bethlehem, Albany county, against the New York, West Shore and Buffalo Railway Company and answer of road thereto. Usual course, with the order to call attention of complainants to chapter 255, Laws of 1885.

Letters of John O'Donnell, relative to the complaint of Farmers' Coöperative Union. Ordered filed.

Reply of complainant to answer of Newburgh, Dutchess and Connecticut Railroad Company, in the complaint of John D. Wing et al. Ordered, that Secretary write for a copy of the agreement of Newburgh, Dutchess and Connecticut Railroad Company with the New York and New England Railroad Company.

Letter of J. M. Toucey, relative to Hart's foot-guard. Ordered filed.

Letter of Thomas C. Miles, relative to cab electric system. Ordered filed.

Letter of J. A. Buchanan (New York, Lake Erie and Western Railroad Company), relative to milk statistics. Ordered, that the Secretary write to J. King, of Erie road, that the Board has not yet been advised as to the conclusions of Mr. King in the matter of the statistics of milk traffic, asked for by the Board, promised in the letter of Mr. J. H. Buchanan, of June 6th, and that the Board desires to be informed at once.

Letter of K. E. Bunnell. Laid over for next meeting.

Ex-Attorney-General Schoonmaker and N. C. Moak were heard in summing up in the case of the Town of Harpersfield v. The Ulster and Delaware Railroad Company.

In the matter of hearings of issues: Ordered, that the case of James Merriman et al. v. Delaware, Lackawanna and Western Railroad Company be set down for June 30, 9:30 A. M.; Samuel Campbell v. Delaware, Lackawanna and Western and Delaware and Hudson Canal Companies, June 30, 10:30 A. M.; S. F. Miller and C. L. Merriam v. Utica and Black River Railroad Company, June 30, 12 M.; Corning Glass Works v. Fall Brook Coal Company, Wednesday, July 1, 10 A. M.

The Accountant submitted the request of the Forty-second Street, Manhattanville and St. Nicholas Avenue Railroad Company to be excused from making quarterly reports until next fall. Ordered, that the company be informed that the Board will require quarterly reports for the quarter ending June 30, 1885, showing the operations and the balance sheet as the books show at that date.

Ordered, that the Broadway Surface Railroad Company be notified to furnish quarterly reports for the quarter ending September 30, 1885.

The fact that the New York, West Shore and Buffalo Railway Company had not yet filed its quarterly report for the quarter ending March 31, 1885, was reported. Ordered, that the Secretary send the facts to the Attorney-General for his consideration and action.

Ordered, that the Secretary procure 900 copies of new steam report blank, 325 copies of the horse report blank, 1,250 envelopes.

Commissioner Kernan submitted a report on the application for increase of capital stock of the Sixth Avenue Railroad Company. Approved, and ordered that the approval be sent company.

The Board adjourned to sit in Utica, Monday, June 29, at 4 P. M.

WILLIAM C. HUDSON,
Secretary.

JUNE 29, 1885.

The Board met at Baggs' Hotel, Utica, 4 P. M., pursuant to adjournment. All present. The minutes were read and approved.

The Secretary laid before the Board the unfinished business, as follows:

Letter of A. Schoelkoff, relative to the gating of the crossing of the Niagara Falls and Suspension Bridge railway crossing (New York Central and Hudson River railroad). Laid over one week.

Letter of John King (president New York, Lake Erie and Western Railroad Company), refusing to give statistics of milk traffic. Laid over one week.

Letter of Stanley Dexter, relative to delay in cashing coupons (New York, Lake Erie and Western Railroad Company). Ordered filed.

Letters of R. M. Olyphant and H. G. Young (Delaware and Hudson Canal Company). Referred to Commissioner O'Donnell.

Ordered, that Grand Trunk Railroad Company be sent a copy of H. G. Young's letter and written, asking what answer it will make; also to Lake Champlain and Ogdensburg Railroad Company, and send copies of letter to Mr. Canovan.

Letter of Thomas C. Miles, relative to electric cab system. Ordered, that Secretary write that the Board is much engaged in business and at the first opportunity, when it is in New York, will examine it. Referred to Commissioner Rogers.

Letter of John O'Donnell, of Jamaica, relative to the complaint of Farmers' Coöperative Union v. Long Island Railroad Company. Ordered a copy sent to R. M. Heald, of Long Island Railroad Company.

Letter of mayor of Schenectady, announcing the beginning of the building of a new depot at that city. Ordered filed.

Letter of Thomas Cornell, asking a question as to assessors' powers. Referred to Commissioner Kernan.

Letter of Edwin B. Mitchell, relative to Herkimer station. Ordered, that a copy be sent to Mr. Depew and that his attention be called to the fact that no answer has been received to the letter of the Board, of date of June 10, to Mr. Toucey.

Letter of Austin Corbin (Elmira, Northern and Cortland railroad), relative to trestle bridge. Ordered filed.

Letter of Austin Corbin (Long Island Railroad Company), relative to milk rates.

Commissioner Kernan offered the following:

WHEREAS, The Board heretofore, on September 23, 1884, and May 5, 1885; made recommendations in the matter of Post, Kipp et al. against the Long Island Railroad Company, for a reduction in the rates for the transportation of milk, certified copies of which are hereto attached; and

WHEREAS, The said company has neglected and refused to comply with such recommendation, although a reasonable time has long since elapsed;

Resolved, That the Secretary transmit the facts and papers in the case to the Attorney-General for his consideration and action, and that a certified copy of this resolution be transmitted to the company and the complainants. Carried.

Letter of K. E. Bunnell, relative to rates of transportation on New York, Ontario and Western railway. Ordered, that Secretary write to company asking what action the company has taken or proposes to take under the recommendations of the Board.

Letters of W. V. Reynolds (receiver Lebanon Springs road). Ordered, that Secretary write that Board does not object to the proposed change in time tables, provided the limits of speed suggested in letter of Mr. Reynolds, of date of June 26th, are observed, that is to say fifteen miles per hour on poor rails and twenty-five miles per hour on best rails.

Commissioner Rogers reported verbally that he had investigated the matter of the proposed changes at the Forty-second street depot, and that Mr. Toucey, general superintendent, had agreed to permit passengers having baggage to check to pass, after having purchased tickets, from the waiting-room to the covered depot and thence to the baggage-room, stationing a man at the door and placing a sign at the door to inform passengers of the fact. Investigation showed that two ticket sellers were on duty at a time, and that all passengers who were in line to purchase tickets prior to the hour of starting were given time to purchase and embark.

NEW BUSINESS.

Complaint of J. Oppenheimer v. Long Island Railroad Company, and answer of road thereto. Usual course.

Complaint of Lawrence A. Sneden v. New Jersey and New York Railroad Company. Usual course.

Complaint of Seymour C. Armstrong v. Adirondack Railroad Company. Usual course.

Complaint of Village Board of Health of Mechanicville v. Delaware and Hudson Canal Company. Usual course.

Adjourned.

WILLIAM C. HUDSON,
Secretary.

JULY 7, 1885.

The Board met pursuant to rule. All present.

The minutes of the last meeting were read and approved.

The Secretary laid before the Board the unfinished business:

Letter of the Board of Trade and Transportation. Ordered filed.

Letter of M. D. Borst (president village of Cobleskill), relative to the crossing. Ordered a copy to be sent to H. G. Young, and matter to lie over until next meeting.

Letter of C. L. Whittaker, relative to fences on the New York, Lake Erie and Western railroad. Ordered sent to road, and to lie over a week.

Letter of Austin Corbin and letter of I. D. Barton accompanying, and of J. Oppenheim. Ordered copies of first two sent and all to lie over one week.

Letter of Thos. C. Miles, relative to electric cab system, etc. Referred to Commissioner Rogers.

Letter of J. Edward Merrill (Troy and Boston Railroad Company), and P. B. McLennan (New York, West Shore and Buffalo Railway Company), to the Attorney-General, and transmitted by the Attorney-General to the Board. Ordered, that the Secretary return the letters with the report that the quarterly statements therein promised have not yet been filed, and request the Attorney-General to take action under section 7, chapter 353, Laws of 1882.

Copy of agreement between Newburgh, Dutchess and Connecticut Railroad Company, and New York and New England Railroad Company, and letter of Anthony, Weed & White, relative to complaint of Jno. D. Wing et al. v. Newburgh, Dutchess and Connecticut Railroad Company. Ordered, that the parties in interest be notified that the Board will have a hearing at Fishkill Landing, at 5:15 p. m., Tuesday, July 14th.

Letter of J. Oliver, commissioner of highways, town of Bethlehem, relative to highway. Referred to Commissioner Kernan.

Letter of C. E. Durkee (Adirondack Railroad Company), relative to the complaint of S. C. Armstrong against said company. Ordered, that the letter be sent to the complainant, and the case be ordered closed.

Letter of J. A. Buchanan, relative to Hamburg station. Ordered filed.

Letter of A. Schoelkoff (Niagara Falls and Suspension Bridge Railroad Company). Ordered laid over one week, and Secretary instructed to write Superintendent Toucey (New York Central and Hudson River Railroad Company), that the Board is being pushed by the Niagara Falls and Suspension Bridge Railroad Company, as to the erection of gates promised, and ask when the gates will be put in place.

Letter of John King (New York, Lake Erie and Western Railroad Company), relative to the refusal of the New York, Lake Erie and Western Railroad Company to give the statistics of milk traffic asked for by the Board.

Commissioner Kernan offered the following:

Resolved, That the Secretary be directed to transmit to the Attorney-General a certified copy of the correspondence between this Board and John King, president of the Erie railroad, in reference to information required from him as to the milk traffic of the road, and also a certified copy of these resolutions, and that the Attorney-General be requested to take such action as in his judgment may be proper and expedient to punish said King for failing to furnish information under the provisions of chapter 353 of the Laws of 1882, and also to compel him to comply with the request of the Board. Adopted.

Letter of V. L. Lary, president New Jersey and New York Railroad Company, relative to complaint of L. A. Sneden, and of petition of residents of Spring Valley, relative thereto. Ordered, copies sent to Mr. Sneden, with request to make answer.

The Secretary laid before Board the certified copy of the proceedings of the stockholders of the Albany railway, as to the resolution of the directors to increase the capital stock from \$200,000 to \$250,000, the proof of the publication of the notice of such meeting as required by law, and of service of the notice on the stockholders, and the report of the Accountant as to the financial condition of such road under the rule and instruction of the Board of June 2, 1885.

Commissioner Kernan offered the following:

Resolved, That a copy of the report of the Accountant be sent the Albany railway; that the road be allowed to file objections thereto or corrections thereof, and that a hearing be held for that purpose, at the office of the Board in the Capitol, Albany, July 14th, at 10 A. M. Adopted.

Complaint of C. R. Quimby and Dr. De Hart, as to the condition of the station at Pleasantville Station, Westchester county. Ordered sent to New York Central and Hudson River Railroad Company.

Commissioner Rogers moved that the Secretary call the attention of the New York Central and Hudson River Railroad Company to the fact that on the Hudson River division, certain engines scatter live coals on the adjacent property, causing fire in the neighborhood of Garrisons and presumably elsewhere, and request that the spark arresters be examined and put in proper condition. So ordered.

Ordered, that the Inspector be instructed not to report private railroads not incorporated under the laws of the State and not engaged in the business of transporting passengers and freight.

Commissioner Kernan reported that a hearing had been had by him at Cortland, June 10, 1885, concerning the street crossings complained of, and the points were inspected by him. It was agreed that the proceedings should be suspended thirty-five days or until July 15th, in order to enable the railroad company to make improvements at the crossings then proposed, the Board to consider the matter satisfactorily ended to the complainants unless the complaint is renewed by trustees.

Commissioner Kernan reported in the matter of Merriman and others v. Delaware, Lackawanna and Western Railroad Company, that an inspection was made by Commissioners Rogers and Kernan of the points complained of, June 30th, and it was agreed that a man be employed to count the extent of the switching and the number of wagons passing Schuyler street between 7 A. M. and 10 P. M., and the switching over Columbia and Whitesboro streets six days, Commissioner Kernan to employ a man. So ordered.

Commissioner Kernan reported a conference between himself, Commissioner Rogers and Mr. Maynard (Utica and Black River Railroad Company), in the matter of Merriam and Miller v. Utica and Black River Railroad Company, the road agreed to place for the convenient use of passengers in getting on and off the cars, a plank walk alongside the rails at Stittsville, and when completed, the Board to determine whether it will be sufficient for general use. The question of the height of steps was undisposed of, and the attention of Mr. Maynard was called to the low steps in use on the New York Central and Hudson River railroad.

Commissioner Kernan reported that Commissioners Rogers and Kernan had inspected and had a hearing June 30, 1885, in the matter of Samuel Campbell v. Delaware, Lackawanna and Western and Delaware and Hudson Canal Company. The companies agreed to erect gates and have them tended from 7 A. M. to 10 P. M. The complainants were present in person, and H. G. Young and C. D. Hammond, of the Delaware and Hudson Canal Company, and A. C. Saulsbury, assistant superintendent Delaware, Lackawanna and Western Railroad Company.

Commissioner Kernan reported on the letter of Thomas Cornell, president Ulster and Delaware Railroad Company, referred to him, that 2 Revised Statutes, 7th edition, page 1086, and the case of People v. Cassidy, 46 N. Y., page 62, seem to be applicable to all railroad companies. Ordered, that Secretary write Board has not been in session in Albany for two weeks past, which accounts for delay in answering the letter.

Commissioner Kernan submitted a report in the matter of Harpersfield v. Ulster and Delaware Railroad Company. Ordered printed.

The Secretary reported that the following document was delivered to him by the Governor for deposit in this office:

At a meeting of the Board of Directors of the Brooklyn Elevated Railroad Company, held at the office of the company, No. 49 Fulton street, in the city of Brooklyn, on the 18th day of June, 1885, a quorum being present, it was unanimously resolved as follows:

WHEREAS, a bill has passed the Legislature, known as "Assembly Bill No. 638," and now awaits the signature of the Governor; and

WHEREAS, said bill contains three sections, one of which amends the present charter of the company in respect to the collection of fares from passengers, the second of which extends the time of building its road eastwardly from Schenck avenue for five years, and the third of which extends the time for the completion of the rest of its railroad for three years, and

WHEREAS, it appears that objection has been made to the enactment of the provisions in respect to fares,

Resolved, That in order to obviate any objection to the signature of said bill by the Governor, and for the purpose of securing his signature thereto, the Brooklyn Elevated Railroad Company hereby covenants and agrees with the Railroad Commissioners of the State of New York that, notwithstanding the passage of said bill and its signature by the Governor and its enactment as a law, the company will limit the fare for passengers within the limits of the city of Brooklyn to the sum of five cents for each passenger, and no more than that sum at all hours, and that it will maintain such rates of fare within said limits until the same shall be changed, modified or regulated by the Legislature of the State of New York; further

Resolved, That, in order to carry this resolution into effect, the company will hereafter make, sign, seal, execute and deliver a formal contract or agreement with the Railroad Commissioners of the State of New York.

We hereby certify the foregoing to be a true extract from the minutes of the Board of Directors of the Brooklyn Elevated Railroad Company, the successor company of the Brooklyn Silent Safety Railway Company.

[L. S.] Brooklyn Elevated Railroad Company,
(Signed) C. J. G. HALL, Vice-President.

Attest: (Signed) ELBERT SNEDEKER, Secretary.

Commissioner O'Donnell raised the point of order that so much of this communication as relates to this Board making a "covenant or agreement," to-wit:

"WHEREAS, It appears that objection has been made to the enactment of the provisions in respect to fares,

Resolved, That in order to obviate any objection to the signature of said bill by the Governor, and for the purpose of securing his signature thereto, the Brooklyn Elevated

Railroad Company hereby covenants and agrees with the Railroad Commissioners of the State of New York, etc., etc.," be not placed upon the minutes of the Board, for the reason that the Board has no power to make such covenant or agreement.

The chairman ruled that point of order not well taken; that the filing of the document with this Board by order of the Executive does not constitute the Board a party to the same as to an agreement. That the document referred to is simply a promise filed in a public office of the State, made by the railroad at the suggestion of Governor Hill, and designed by him to secure for the citizens of Brooklyn five cent fares within the entire city limits of the road.

Commissioner Kernan reported in the matter of Citizens Town of Bethlehem v. New York, West Shore and Buffalo Railway Company, as follows:

"It being conceded by the papers before the Board that the claim for the extension of a road from the trestle of the railroad company to the new highway, as constructed, is a just one, and that such extension is necessary for the public use and convenience, it is therefore recommended that the company proceed to acquire the necessary land and construct the road in accordance with the understanding and agreement made between the railroad and the town."

Adjourned.

WILLIAM C. HUDSON,
Secretary.

JULY 14, 1885.

The Board met pursuant to rule. Present—Commissioners Kernan and Rogers.

Messrs. J. W. McNamara, A. Van Vechten and J. T. Rice appeared before the Board in the matter of the application of the Albany Railway Company for an increase of capital stock from \$200,000 to \$250,000.

The minutes were read and approved.

The Secretary laid before the Board the unfinished business:

Letter of J. M. Toucey, relative to smoke-stack netting. Ordered filed.

Letter of H. G. Young and M. D. Borst, relative to Widow Lawyer's crossing at Cobleskill. Ordered, Secretary write trustees of village of Cobleskill that the Board has been informed that a proposition has been submitted in relation to the highway crossing, and desires to be advised whether the town will accept or not.

Letter of J. B. Kerr (New York, Ontario and Western Railway Company), relative to bridge strain sheets. Referred to Commissioner Rogers.

Letter of J. W. Hobart (Ogdensburg and Lake Champlain Railroad Company), relative to the depot at Rouse's Point. Referred to Commissioner O'Donnell.

Letter of L. A. Sneden, relative to whistle blowing at Spring Valley. Ordered filed.

Letter of M. F. Hazen, complaining of trestle bridge at Flushing, L. I., and J. R. Maxwell (Long Island Railroad Company), in answer thereto. Usual course.

Letter of C. L. Kimball (Newburgh, Dutchess and Connecticut Railroad Company) and Milo J. White, relative to the complaint of J. D. Wing et al. and hearing thereupon. Ordered filed.

Letter of Attorney-General, relative to quarterly reports of Troy and Boston and New York, West Shore and Buffalo Railway Companies. Ordered filed.

Letter of C. L. Whittaker, relative to condition of fences at Deposit on Lake Erie and Western line. Ordered, that Secretary again call attention of the Erie Railroad Company to the fences, and say the Board is informed that the road has failed to perform its promises and that, unless the Board is advised that the fences are erected within the next week, the Board will turn the matter over to the Attorney-General for his action, under the provisions of section 44, chapter 140, General Railroad Act of 1850.

Letters of Austin Corbin and A. A. McLeod (Elmira, Cortland and Northern Railroad Company). Referred to Commissioner Rogers.

Commissioner Kernan offered the following:

WHEREAS, The complainant, John O'Donnell, of Jamaica, v. Long Island Railroad Company, having reported to the Board that the result of his experiment in shipping manure under the new arrangement and tariff suggested by the road is not satisfactory; therefore,

Resolved, That road be requested to prepare and send to the Board, within thirty days, the following statistics and information under oath:

1. The extent of the manure business in tubs, monthly, during the year preceding September 30, 1884, and for the nine months ending June 30, 1885.

2. Ditto to the town of Jamaica.

3. The cost of the service and of the loading and unloading, as near as the same can be ascertained or estimated. Adopted.

Commissioner Rogers reported that he had examined the railway electric cab system, experimentally in operation on the Staten Island railroad, on Thursday, July 9, 1885.

The report of Commissioner Kernan, on the Harpersfield v. Ulster and Delaware Railroad Company, was called up and laid over one week.

NEW BUSINESS.

Letter of C. L. Kimball, relative to the use of bell cord. Ordered, that Secretary write that there appears to be no statute governing the matter, but is the outcome of universal custom the result of necessity.

Letter of W. A. Hazen. Referred to the Accountant to report at next meeting.

By Commissioner Rogers:

Resolved, That the Accountant be instructed to examine the books of the Tonawanda Valley and Cuba Railroad Company, or its receiver, for the purpose of ascertaining whether he or it can complete his or its quarterly reports. Adopted.

Adjourned.

WILLIAM C. HUDSON,
Secretary.

JULY 21, 1885.

The Board met pursuant to rule. All present.

The minutes were read and approved.

Letters of John King (New York, Lake Erie and Western Railroad Company), and B. Thomas, general superintendent, relative to the complaint of C. L. Whittaker. Ordered copy sent to complainant and case closed.

Letters of M. D. Borst and H. G. Young, relative to the widow Lawyer's crossing at village of Cobleskill. Ordered copy of H. G. Young's letter sent to Borst, and case closed.

Letter of J. Oppenheimer, with petition accompanying, relative to water-closet facilities at the depot of the Long Island Railroad Company at College Point.

Commissioner O'Donnell moved the following recommendation:

The Board is forced to the conclusion from the highly respectable names attached to the complaint, that suitable accommodations are not provided at College Point for either sex. The Board therefore recommends that the Long Island Railroad Company proceed at once to erect and maintain such water-closets or privy as are necessary, one for men and one for women; that they be kept open, and that signs be placed to indicate their whereabouts without delay, and that the Board be informed upon completion. Adopted. Ordered, that the Secretary, after a reasonable time, visit the point and inspect the same.

Letter of L. A. Sneden, relative to the blowing of whistles at Spring Valley. Ordered that Secretary inquire of the company whether the rule of two blasts, fifteen seconds each and the engine placed on the switch cannot be complied with, as suggested by Mr. Sneden.

Ordered, that the Secretary be authorized to have the annual reports of the railroad companies bound.

Ordered, that the bill of T. J. Cowell, of \$180.10, be paid.

Commissioner Kernan submitted a report in the matter of the Niagara Falls and Suspension Bridge Railway Company v. The New York Central and Hudson River Railroad Company. Adopted and ordered issued.

Commissioner Kernan called up the Harpersfield case. Adopted, ordered printed and issued.

The matter of the application of the Albany Railway Company for an increase of capital stock was called up. Referred to Commissioner Rogers to write an opinion, and ordered that the same when received be sent to the other Commissioners to concur or dissent as the case may be, in writing.

Commissioner Rogers moved that when the Board adjourn it adjourn until August 25, 1885, at 10 A. M. Carried.

Commissioner O'Donnell moved that the Ogdensburgh and Lake Champlain Railroad Company be ordered to show cause before the Board on August 25, 1885, why the fact of the failure of the said company to comply with the recommendations of the Board in the matter of the complaint of the Citizens of Rouse's Point, should not be turned over to the Attorney-General for his consideration and action. Carried.

Commissioner O'Donnell moved that the Secretary write to the Delaware and Hudson Canal Company that a final answer to the recommendations of the Board, in the matter of Rouse's Point case, is required by the Board. Carried.

Ordered in the matter of K. E. Bunnell v. New York, Ontario and Western Railway Company, that after waiting a reasonable time for the answer of E. F. Winslow, the Secretary write that the Board, if he does not answer, will be under the necessity of subpoenaing him to appear before the Board.

Ordered in the matter of the Citizens of Suspension Bridge v. New York Central and Hudson River Railroad Company, New York, Lake Erie and Western Railroad Company, Grand Trunk and Lehigh Valley Railroad Company, that the matter be turned over to the Attorney-General for his consideration and action.

The Accountant reported that the request of Mr. Haven was impracticable, but that from data gathered through the annual reports the result sought could be reached. Ordered, that Accountant write the same to Mr. Haven.

Ordered, that the Secretary inform Mr. W. L. M. Phelps that on and after the first day of September, the Board will no longer require his services.

Adjourned.

WILLIAM C. HUDSON,
Secretary.

AUGUST 25, 1885.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Secretary laid the unfinished business before the Board as follows:

Letters of J. Oppenheimer and Austin Corbin (Long Island Railroad Company), relative to the complaint of College Point as to privy facilities at the depot. Ordered closed.

Correspondence of C. M. Depew (New York Central and Hudson River Railroad Company) and Mr. Buchanan (New York, Lake Erie and Western Railroad Company), relative to the complaint of citizens of Suspension Bridge as to station facilities at that point. Ordered, that copies be sent the complainants and the companies notified that the time for compliance with the recommendation of Board is extended to October 1.

Correspondence of Mr. Young (Delaware and Hudson Canal Company) and J. W. Hobart (Ogdensburg and Lake Champlain Railroad Company), relative to Union depot at House's Point. Ordered, that Secretary inform parties in interest that a final hearing will be had on this matter by the Board September 15.

Letter of W. S. Eno (counsel Newburgh, Dutchess and Connecticut Railroad Company), and brief of Anthony, White & Weed in the complaint of John D. Wing et al. v. Newburgh, Dutchess and Connecticut Railroad Company. Request of Eno for extension of time granted, and time extended to September 15.

Correspondence of A. Schoelkoff (Niagara Falls and Suspension Bridge Street Railway Company) and J. M. Toucey (New York Central and Hudson River Railroad Company). Ordered, that Mr. Schoelkoff be answered that the steam road has the right to lay guard rail, if such is necessary, but that guard and main rail should be so arranged as not to present an obstacle to street road, and referred to Commissioner Rogers. Also ordered, that Mr. Toucey be informed that the matter of compliance will stand over until the 8th of September, so that a settlement between the parties can be reached.

Letter of C. M. Depew (New York Central and Hudson River Railroad Company), relative to Pleasantville station. Ordered, that copy of the letter be sent to the complainant.

Letter of J. B. Kerr (New York, Ontario and Western Railway Company), relative to K. E. Bunnell complaint. Laid over until September 15.

Letter of C. L. Merriam, relative to platforms on the Utica and Black River railroad, and the failure of the New York Central and Hudson River railroad employees to give information as to the delay caused by the wash-out at Schenectady. Ordered, that so much of the letter as refers to platforms at stations be referred to Commissioner Rogers to answer, and that the matter be called up September 15. As to the complaint against New York Central and Hudson River railroad employees, Commissioner Kernan offered the following:

WHEREAS, There have been complaints of the failure of the New York Central and Hudson River Railroad Company to promptly forward the mails upon the occasion of the recent wash-out at Hoffman's Ferry, and of the neglect of the company to give to the public any satisfactory or sufficient explanation of the cause of delay of passenger trains or the probable duration of such delay, therefore

Resolved, That the company show cause, in person or by letter, before the Board on September 15, 1885, at 10 A. M., at the Capitol at Albany, as to the truth of the said complaint, and why, in the future, due notice should not be given upon bulletin boards at principal stations, of accidents involving delay and the probable duration thereof. Adopted.

Letter of L. A. Sneden, relative to his complaint against the New Jersey and New York Railroad Company, with a statement of the Secretary that the president of the New Jersey and New York Railroad Company had not replied to the letters of the Board of July 22, and August 11.

Commissioner Rogers offered the following:

Resolved, That the New Jersey and New York Railroad Company be required to show cause before the Board of Railroad Commissioners, at Albany, on Tuesday, September 15, 1885, at 12 o'clock, M., why an answer has not been sent to a communication of this Board of July 22, and one of August 11, 1885, in reference to the complaint of L. A. Sneden. Adopted. (Letter received before citation was sent.)

Of N. E. Kernan, relative to the New Hartford crossing. Ordered closed.

Letters of Fred. Hatch, clerk of village of Cortland, relative to the crossings in that village. Ordered, that copies of the letter of date of August 20 be sent to the companies, and that they be asked why the promise made the village authorities in the presence of a Commissioner of this Board has not been performed.

Letter of H. G. Young, relative to complaint of the board of health of Mechanicville. Laid over until September 15.

Letter of C. M. Depew (New York Central and Hudson River Railroad Company), relative to Herkimer station. Laid over until the 15th of September.

Letter of Stanley G. Southard. Laid over until September 15.

Commissioner Rogers offered a report in the Matter of J. Merriman and others v. Delaware, Lackawanna and Western Railroad Company. Adopted and ordered issued.

Ayes — Commissioners Rogers and O'Donnell.

Not voting — Commissioner Kernan.

Commissioner Kernan offered the following resolution:

Resolved, That the Board recommends that the Delaware and Hudson Canal Company erect and operate gates at Court street, in Utica, the same being a dangerous and obstructed crossing. Adopted.

In the matter of the application of the Penn Yan and New York Railway Company, proof of service of notice of meeting of stockholders, and of the holding of such meeting and approval of such increase had been voted, was submitted.

By Commissioner Kernan:

Resolved, That the Accountant be instructed to examine the accounts and report upon the financial condition of the Penn Yan and New York Railway Company, and to ascertain from the books thereof the cost of the road and equipment, the amount of stock and bonds outstanding, and other facts bearing upon the propriety of approving the increase of stock applied for. Adopted.

Communication of John P. Grant, relative to the complaint of the citizens of Harpersfield v. The Ulster and Delaware Railroad Company. Ordered, that it be sent to the Hon. A. Schoonmaker with the request that he answer within ten days.

NEW BUSINESS.

Complaint of Nelson Burdick v. Rome, Watertown and Ogdensburgh, and Utica and Black River Railroad Companies. Ordered usual course.

Letter of Robins Fleming applying for position of inspector of bridges. Ordered filed with applications.

Letter of Peter Frechett, relative to an improvement for curvature of rails, with accompanying document. Ordered filed.

Plans and specifications of the safety car coupler. Ordered filed.

The Board adjourned until September 15, 1885.

WILLIAM C. HUDSON,
Secretary.

SEPTEMBER 15, 1885.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business under the rule, as follows:

Communication of the clerk of village of Whitestone, relative to bridge over cut of Whitestone and Westchester railroad. Ordered, that Secretary write to clerk for names of parties representing the company.

Letter of C. M. Depew and J. M. Toucey (New York Central and Hudson River Railroad Company), relative to delay of mail service and passenger traffic at the time of washout at Hoffman's Ferry. Ordered filed.

Letter of V. L. Lary (New Jersey and New York Railroad Company), relative to the complaint of L. A. Sneden. Referred to Commissioner Rogers.

Answers of the Utica and Black River and the Rome, Watertown and Ogdensburgh Railroad Companies to complaint of Nelson Burdick. Ordered usual course, and that Inspector Spencer be instructed to proceed to the point in complaint and make a map of the same and report to the Board.

Letter of J. Hickson (Grand Trunk railway) relative to depot at Rouse's Point.

Letter of J. Buchanan (New York, Lake Erie and Western Railroad Company) relative to the Suspension Bridge depot complaint. Ordered filed.

Letter of F. F. Chambers and J. F. Halstead (Delaware, Lackawanna and Western Railroad Company) relative to the complaint of dangerous crossing at Utica coal depot. Ordered, that the Secretary write that the letter of Superintendent Halstead was the first notification the Board has had that the company was making negotiations for improvements, and that had the Board known that any improvements were contemplated or negotiations pending, it would have on request of the company delayed the decisions so as to afford the company an opportunity to complete any negotiations it may have pending.

Letter of F. F. Chambers and W. K. Niver (Syracuse, Binghamton and New York Railroad Company) relative to the complaint of village authorities of Cortland as to dangerous crossing. Ordered communication of superintendent be sent to Cortland authorities.

The Accountant's report as to the financial condition of the Penn Yan and New York Railroad Company.

Commissioner Kernan offered the following:

WHEREAS, The report of the Accountant shows that the cost of construction of the Penn Yan and New York railroad is \$127,000, while the application is for an increase of capital stock from \$60,000 to \$125,000; therefore,

Resolved, That the said application for an increase of capital stock from \$60,000 to \$125,000 be granted.

Commissioner O'Donnell offered the following amendment:

That the resolution lie upon the table until the Secretary of the Board write and obtain a copy of the lease of the company to the Syracuse, Geneva and Corning Railroad Company operated by the Fall Brook Coal Company.

The amendment was lost by the following vote:

Aye — Commissioner O'Donnell.

Nays — Commissioners Rogers and Kernan.

The question was on the original resolution:

Ayes — Commissioners Rogers and Kernan.

Not voting — Commissioner O'Donnell. Carried.

Commissioner Kernan moved that a copy of the lease or agreement between the Penn Yan and New York Railroad and the Syracuse, Geneva and Corning Railroad Companies, be sent for by the Secretary and placed on file in this office.

The following resolution was adopted by unanimous consent:

Resolved, That the Accountant be authorized to employ E. B. Hastings as an assistant to aid in preparing the tabulations and statistics for the annual report at the compensation paid him last year.

In the matter of the Coughtry complaint of a dangerous crossing at Bethlehem. Ordered, that the New York, West Shore and Buffalo Railway Company be notified that it is reported to the Board by the complainant, that the electric bell fails to operate successfully, and that the road be requested to inform the Board as to the facts of the case.

Representatives of the Lake Champlain, Delaware and Hudson Canal Company, Grand Trunk Railway Company and of the citizens of Rouse's Point, relative to the depot at that place, appeared before the Board. The authorities of the Delaware and Hudson Canal Company and Grand Trunk Railway Company agreed to erect a joint depot on the north side of the Ogdensburgh and Lake Champlain railroad (at the junction), it being understood between the railroads and the village authorities, that the village authorities will open a new street at their own expense so as to make the new depot accessible, and that the Ogdensburgh and Lake Champlain Railroad Company will permit such a street to cross their tracks to the proposed depot.

Commissioner Rogers submitted a report in matter of John D. Wing et al. v. The Newburgh, Dutchess and Connecticut Railroad Company. Ordered adopted, printed and issued.

Commissioner Kernan offered a report in the matter of the Corning Glass Company v. The Fall Brook Coal Company. Adopted.

Ayes — Commissioners Kernan and Rogers.

Aye in concurring in the conclusion — Commissioner O'Donnell, and ordered printed and issued.

Adjourned until September 29.

WILLIAM C. HUDSON,
Secretary.

SEPTEMBER 29, 1885.

The Board met pursuant to adjournment. Commissioners all present.

The minutes of the last meeting were read, amended in certain particulars and approved.

The Secretary submitted the unfinished business under the rule.

Letter of C. M. Depew and J. M. Toucey, New York Central and Hudson River Railroad Company, relating to delay of mail service and passenger traffic at the time of washout at Hoffman's Ferry.

On motion of Commissioner Rogers, referred to Commissioner Kernan to write letter to railroad company, setting forth the views of the Board in relation thereto.

The matter of the Village Board of Health of Mechanicville v. The Delaware and Hudson Canal Company was called up, and on motion referred to Commissioner Kernan. Mr. Young, the assistant general manager of the Delaware and Hudson Canal Company, to be notified by Secretary that Mr. Kernan will hear him in answer thereto, at the office of the Board in Albany, on September 30, at 10 A. M.

The Secretary presented letter of Hon. C. M. Depew, president New York Central and Hudson River Railroad Company, relative to station at Herkimer. On motion, laid over.

In the matter of the application of the Broadway Railroad Company of Brooklyn for an increase of its capital stock from \$350,000 to \$525,000.

Commissioner Kernan offered the following:

Resolved, That the Accountant be instructed to examine the accounts and report upon the financial condition of the Broadway Railroad Company of Brooklyn, and to ascertain from the books thereof the cost of the road and equipment, the amount of stock and bonds outstanding and other facts bearing upon the propriety of approving the increase of stock applied for. Adopted.

Commissioner Rogers reported verbally on matter of L. A. Sneden v. The New York and New Jersey Railroad Company, stating that he had communicated with complainant

Sneden, calling his attention to the conflict in statements received by the Board, but nothing had been received in answer thereto from Mr. Sneden. Laid over.

Commissioner Kernan, on the application of J. P. Grant for a modification by the Board of its decision in the case of the Town of Harpersfield v. The Ulster and Delaware Railroad Company, reported as follows:

The Citizens and Tax Payers of the Town of Harpersfield v. The Ulster and Delaware Railroad Company. In its decision herein the Board stated that "chapter 598 of the Laws of 1875 has extended the time until June 12, 1887." It was intended that this should read as follows: "Chapter 598 of the Laws of 1875, as amended by chapter 850 of the Laws of 1879, has extended the time until June 12, 1887." To the extent of making this correction, the Board modified its decision herein, beyond that it declines to go. The Board does not in its decision hold that chapter 405 of the Laws of 1882 applies to the case, but simply states that such seems to be its effect. Whether that statute applies or not need not at present be determined. It will be time enough to decide that question after June 12, 1887, provided the railroad does not in the meantime complete its road.

By the Board.

(Signed)

WILLIAM C. HUDSON,

Secretary.

Adopted and ordered issued.

The following resolution, offered by Commissioner Kernan, was adopted:

The Board recommends that the Utica and Black River Railroad Company shall construct and maintain at its stations plank walks, similar to those recently constructed at Stittsville, for the convenience of passengers getting on and off the trains, such walks to be as high as the top of the rail, to be well filled on either side of the plank with cinders or gravel, also that the steps and platforms at stations, where defective, be put and kept in proper repair and condition. Adopted.

NEW BUSINESS.

The Secretary presented a letter from O. H. P. Cornell, vice-president and manager Automatic Railway Gate and Signal Company, asking Board to make an early examination of an automatic railway crossing gate, manufactured by his company. Referred to Commissioners Rogers and O'Donnell to make such inspection, and Secretary ordered to telegraph the Automatic Railway Gate and Signal Company that the Board purposes making such inspection on September 30, 3 p. m.

The Secretary presented a complaint of C. W. Van Rensselaer against the New York Central and Hudson River Railroad Company, calling attention of the Board to a dangerous crossing on the River road foot of Teller's Hill, in the town of Greenbush, Rensselaer county. Ordered usual course.

The Secretary presented a communication from the clerk of the village of Whitestone, Queens county, in answer to a communication from the Secretary of the Board, relative to the complaint of said village of Whitestone v. The Whitestone and Westchester Railroad Company. Ordered, that the complaint and copy of letter be sent to Mr. Herman Funke at College Point, N. Y., the trustee of bondholders of said railroad, with a request that he make answer thereto within ten days.

The Secretary presented a communication from Albert Allen, general superintendent Syracuse, Ontario and New York Railway Company, relative to the tax levied by the Comptroller of the State on said company for expenses of the Board of Railroad Commissioners, together with accompanying statement and letter of Comptroller attached. On motion of Commissioner Rogers, ordered that the Secretary return the same to Superintendent Allen with the following letter:

"The apportionment of the expenses of the Railroad Commission upon the railroads of the State is specifically determined by statute. It is a matter over which this Board has no control. The Board calls attention to the fact that the printing items, \$12,226.11, and \$13,957.47, were specially ordered by the Legislature, for the publication of extra reports to be distributed.

Commissioner Rogers reported an accident on Albany and Susquehanna railroad, by which an engineer was killed. No report having been received from the company, matter referred to Commissioner Rogers.

Commissioner O'Donnell presented complaint of U. G. Paris against the Glens Falls and Caldwell branch of the Delaware and Hudson Canal Company. Ordered usual course.

Commissioner Kernan presented a petition of citizens of Sauquoit, calling attention of the Board to the dilapidated condition of the depot building of the Delaware, Lackawanna and Western Railroad Company at that place. Ordered usual course.

Commissioner Kernan presented a petition of citizens of Utica v. The Utica and Mohawk Railroad Company, alleging that company does not maintain and operate its railroad. Ordered usual course, and that a copy of all papers on file relative to same subject be sent Hon. C. W. Hutchinson, at Utica, N. Y.

Ordered, that the Accountant write to the Bath and Hammondsport, Elmira, Cortland and Northern, Lackawanna and Pittsburg, New Jersey and New York, New York, West Shore and Buffalo, Springfield and Sardinia, and Troy and Boston Railroad Companies that unless quarterly reports of June 30, 1885, are received by October 6, 1885, the Board will take summary measures to compel compliance with the law, etc.

The Board adjourned.

WILLIAM C. HUDSON, *Secretary.*

NEW COMPANIES

FORMED UNDER THE GENERAL RAILROAD LAW DURING THE YEAR
ENDING SEPTEMBER 30, 1885.

The following companies have been formed by filing articles of association in the office of the Secretary of State :

THE BRANCHPORT AND PENN YAN RAILROAD COMPANY.

Articles of association filed March 17, 1885.

Commencing at or near the village of Branchport, and running thence in the most direct and feasible route through the town of Jamestown, Chautauqua county, and terminating at or near the village of Penn Yan, Yates county.

Length of road, about eight miles.

Capital stock, \$80,000.

THE BROOK AVENUE RAILROAD COMPANY.

Articles of association filed August 14, 1885.

To be constructed, maintained and operated upon and along the surface of certain streets and avenues in the city of New York, as set forth in their articles of association.

Length of road, five miles.

Capital stock, \$600,000.

THE BROOKLYN, BUSHWICK AND QUEENS COUNTY RAILROAD COMPANY.

Articles of association filed February 11, 1885.

Commencing at a point on First street at foot of Broadway, city of Brooklyn, and running through and upon the surface of certain streets in said city to the village of Canarsie, and from thence to the village of Maspeth, county of Queens.

Length of road, about ten miles.

Capital stock, \$100,000.

THE BROOME, DELANCY AND SPRING STREETS RAILWAY COMPANY.

Articles of association filed September 8, 1885.

To be built upon the surface and along certain streets in the city of New York, as set forth in their articles of association.

Length of road, about three miles.

Capital stock, \$1,000,000.

THE CALVARY CEMETERY, GREENPOINT AND BROOKLYN RAILROAD COMPANY.

Articles of association filed January 18, 1885.

To be constructed from Long Island City, Queens county (commencing at a certain point on Greenpoint avenue, two hundred feet easterly of the main entrance of Calvary Cemetery) to the city of Brooklyn, as set forth in their articles of association.

Length of road, about nine miles.

Capital stock, \$100,000.

THE CANTON AND ST. LAWRENCE RIVER RAILROAD AND BRIDGE COMPANY.

Articles of incorporation filed December 20, 1884.

Commencing in the village of Canton, St. Lawrence county, and running in the most direct and convenient route to the northerly side of Goose Neck island.

Length of road, twenty miles.

Capital stock, \$1,000,000.

THE CATSKILL CITY RAILROAD COMPANY.

Articles of association filed May 20, 1885.

Commencing at Catskill Point, and terminating at the depot of the New York, West Shore and Buffalo Railway Company.

Length of road, two miles.

Capital stock, \$20,000.

THE CEDARHURST RAILWAY COMPANY.

Articles of association filed November 28, 1884.

This road is to be constructed from the Rockaway branch of the Long Island Railroad Company to the property of the Ocean Point Company known as "Cedarhurst."

Length of road, one mile.

Capital stock, \$10,000.

THE CHAUTAUQUA LAKE RAILWAY COMPANY.

Articles of association filed July 29, 1885.

Commencing at some convenient point in the village of Jamestown, and running along the borders of Chautauqua lake upon the west side (passing through Mayville) and down upon the east side of said lake to the place of beginning.

Length of road, forty miles.

Capital stock, \$500,000.

THE CHRISTOPHER STREET AND JAMES SLIP FERRY RAILROAD COMPANY.

Articles of association filed July 28, 1885.

To be constructed, maintained and operated upon the surface of certain streets in the city of New York, as set forth in their articles of association.

Length of road, four miles.

Capital stock, \$500,000.

THE CITIZENS' STREET RAILROAD COMPANY OF ROCHESTER.

Articles of association filed May 16, 1885.

Commencing in St. Joseph street, at Hayward avenue, and running through and upon certain streets in the city of Rochester, and terminating in Main street, as set forth in said articles.

Length of road, two and one-half miles.

Capital stock, \$100,000.

THE EAST RIVER AND NEWTOWN RAILROAD COMPANY.

Articles of association filed March 9, 1885.

Commencing at a point on the East river at the foot of Greenpoint avenue, in the city of Brooklyn, and running to Long Island City; thence to town of Newtown, and terminating at or near the village of Woodside, Queens county.

Length of road, three miles.

Capital stock, \$100,000.

THE EAST RIVER TUNNEL RAILROAD COMPANY.

Articles of association filed February 25, 1885.

Commencing at some convenient point in Ravenswood or Long Island City, and running thence by the most feasible route below the bed of the east channel of the East river to and under Blackwell's island; from thence under the west channel of said East river, by the most feasible route, to an eligible and con-

venient point on a line with First avenue, between Thirty-fourth and Eighty-sixth streets, in the city of New York.

Length of road, one mile.

Capital stock, \$2,000,000.

THE ELMIRA TRANSFER RAILWAY COMPANY.

Articles of association filed March 3, 1885.

To be built upon the surface of certain streets in the city of Elmira, as set forth in their articles of association.

Length of road, 3,400 feet.

Capital stock, \$10,000.

THE FERRY CROSSTOWN RAILROAD COMPANY.

Articles of association filed January 16, 1885.

To be constructed, maintained and operated upon the surface of certain streets in the city of New York, as laid down in their articles of association.

Length of road, two miles.

Capital stock, \$800,000.

THE FIFTH AVENUE RAILWAY COMPANY.

Articles of association filed September 8, 1885.

To be built upon the surface of certain streets in the city of New York, as set forth in their articles of association.

Length of road, three and one half miles.

Capital stock, \$2,500,000.

THE FIFTY-NINTH STREET RAILROAD COMPANY.

Articles of association filed December 20, 1884.

This road is to be constructed, maintained and operated upon the surface of certain streets in the city of New York, from a connection with the tracks of the Central Park, North and East River Railroad Company on First avenue, easterly through and upon Fifty-ninth street to the Eastern boulevard.

Length of road, 650 feet.

Capital stock, \$1,800.

THE FULTON AND OSWEGO FALLS STREET RAILWAY COMPANY.

Articles of association filed July 16, 1885.

To be operated between villages of Fulton and Oswego Falls, Oswego county, beginning at the corner of Oneida and Second streets in the village of Fulton, and running to the tracks of the Delaware, Lackawanna and Western Railroad Company's crossing at Broadway in the village of Oswego Falls.

Length of road, one mile.

Capital stock, \$15,000.

THE FULTON, WALL AND CORTLANDT STREETS FERRIES RAILROAD COMPANY.

Articles of association filed June 20, 1885.

To be constructed, maintained and operated upon the surface of certain streets in the city of New York, as set forth in their articles of association.

Length of road, two miles.

Capital stock, \$700,000.

THE GLENS FALLS, SANDY HILL AND FORT EDWARD STREET RAILROAD COMPANY.

Articles of association filed May 29, 1885.

Commencing in Glen street, at a point nearly opposite the main entrance to the grounds occupied by the Warren County Agricultural Society, in the village of Glens Falls, Warren county, and terminating at a point on Broadway nearly opposite the Bradley Opera House, so-called, in the village of Fort Edward, Washington county. This road runs through certain towns, named in their articles of association, in the counties of Warren and Washington.

Length of road, seven miles.

Capital stock, \$70,000.

THE GLENS FALLS STREET RAILWAY COMPANY.

Articles of association filed September 18, 1885.

Commencing at a point on Maple street, Glens Falls, in front of the Delaware and Hudson railroad depot, and running through Oak, Warren, Glen to Park and South streets to highway at village line; thence along highway to Feeder dam, in the town of Queensbury.

Length of road, two miles.

Capital stock, \$20,000.

THE GREENPOINT AND LORIMER STREET RAILROAD COMPANY.

Articles of association filed November 6, 1884.

To be constructed, maintained and operated upon the surface of certain streets in the city of Brooklyn, as set forth in their articles of association.

Length of road, two and one-half miles.

Capital stock, \$120,000.

THE HARLEM AND RIVERSIDE PARK RAILROAD COMPANY.

Articles of association filed August 15, 1885.

To be constructed, maintained and operated upon and along the surface of certain streets and avenues in the city of New York, as set forth in their articles of association.

Length of road, two and one-fourth miles.

Capital stock, \$350,000.

THE HUDSON RIVER AND BOSTON RAILWAY COMPANY.

Articles of association filed July 14, 1885.

Commencing at a juncture with the tracks of the Poughkeepsie, Hartford and Boston railroad, at Ancram station, Columbia county, and running through certain towns named in their articles of association, and terminating at the westerly line of the State of Massachusetts.

Length of road, fourteen miles.

Capital stock, \$1,500,000.

THE ITHACA STREET RAILWAY COMPANY.

Articles of association filed November 18, 1884.

To be built upon the surface of certain streets in the city of Ithaca, as set forth in their articles of association.

Length of road, one and one-eighth miles.

Capital stock, \$25,000.

THE LAUREL HILL, NEW CALVARY AND LUTHERAN CEMETERY RAILROAD COMPANY.

Articles of association filed March 20, 1885.

To be constructed, maintained and operated upon the surface of certain streets in Long Island City, county of Queens, as set forth in their articles of association.

Length of road, about five miles.

Capital stock, \$50,000.

THE MADISON AVENUE AND EIGHTY-SIXTH STREET RAILWAY COMPANY.

Articles of association filed July 24, 1885.

To be constructed, maintained and operated upon the surface of certain streets in the city of New York, as set forth in their articles of association.

Length of road, one and three-quarter miles.

Capital stock, \$20,000.

THE MORRIS AVENUE RAILROAD COMPANY.

Articles of association filed July 16, 1885.

This road is to be constructed, maintained and operated upon the surface of certain streets in the city and county of New York, as set forth in their articles.

Length of road, five miles.

Capital stock, \$600,000.

THE MOUNT VERNON AND EAST CHESTER RAILROAD COMPANY.

Articles of association filed August 12, 1885.

Commencing on Railroad avenue near the Harlem railroad depot, in the village of Mount Vernon, and running over the surface of certain streets named, and terminating at the town dock on East Chester creek.

Length of road, two and one-half miles.

Capital stock, \$300,000.

THE MOUNT VERNON AND YONKERS' RAILROAD COMPANY.

Articles of association filed September 18, 1885.

This road is to be constructed through the villages of Mount Vernon, New Rochelle and East Chester, and the city of Yonkers, with branches, as laid down in their articles of association.

Length of road, ten miles.

Capital stock, \$400,000.

THE NEW ENGLAND AND SOUTH-WESTERN RAILROAD COMPANY.

Articles of association filed April 22, 1885.

Commencing at the State line of Connecticut, near Brewster's, and running by the most direct and feasible route to a point at or near the New York, Lake Erie and Western railroad and the New York, Ontario and Western railroad and the State line of New Jersey. This road crosses the Hudson river at or near Storm King mountain, formerly known as Butler hill.

Length of road, thirty miles.

Capital stock, \$3,000,000.

THE NEW ROCHELLE AND PELHAM RAILWAY COMPANY.

Articles of association filed August 22, 1885.

Commencing at a point near the New York, New Haven and Hartford Railroad Companies' tracks, near the depot at New Rochelle, and terminating at Glen island landing. This road has two branches, the one beginning at a point on Main street opposite Centre avenue, and running in a westerly and southerly direction to tracks on the Pelham road, and the other commencing on the same street, opposite Lawton street, and running in a northerly direction, and terminating at a point on Huguenot opposite Rose street.

Length of road, three miles.

Capital stock, \$100,000.

THE NEW ROCHELLE STREET RAILWAY COMPANY.

Articles of association filed August 18, 1885.

Commencing at or near railroad depot in the town of New Pelham, and running from thence to East Chester bay, at or near Pelham bridge. A branch line is to run from Pelham road, town of New Rochelle, to the Neptune House dock; also a branch from Division street, in last-named village, to the New York, New Haven and Hartford railroad, and terminating at Centre street.

Length of road, six miles.

Capital stock, \$60,000.

THE NEW ROCHELLE STREET HORSE RAILROAD COMPANY.

Articles of association filed September 25, 1885.

To be constructed from a point at or near the depot of the New York, New Haven and Hartford Railroad Company, in the village and town of New Rochelle, Westchester county, and running through and upon the surface of certain streets, as named in their articles, to Hudson Park.

Length of road, about two miles.

Capital stock, \$25,000.

THE NEW YORK AND WESTCHESTER RAILROAD COMPANY.

Articles of association filed September 9, 1885.

Commencing at the intersection of the road leading from Fort Schuyler (known as the Government road) and the road leading from Throgs Neck to Westchester;

from thence to West Farms or New York city, and terminating at the Bronx river, together with branches, as shown in their articles.

Length of road, about four miles.

Capital stock, \$150,000.

THE NORTH AND EAST RIVER RAILWAY COMPANY.

Articles of association filed July 8, 1885.

To be constructed, maintained and operated upon the surface of certain streets in the city of New York, as set forth in their articles of association.

Length of road, two miles.

Capital stock, \$200,000.

THE NORTH NEW YORK RAILWAY COMPANY.

Articles of association filed July 23, 1885.

To be constructed, maintained and operated upon the surface of certain streets and avenues in the city of New York, as designated in their articles of association.

Length of road, seventeen miles.

Capital stock, \$1,000,000.

THE ONEIDA RAILWAY COMPANY.

Articles of association filed May 14, 1885.

To be constructed in the village of Oneida, commencing at the southerly line of the lands of the New York Central and Hudson River Railroad Company near the southerly termination of Main street, and running the entire length of said street to the Seneca turnpike, its termination.

Length of road, one and a half miles.

Capital stock, \$15,000.

THE ONE HUNDRED AND SIXTEENTH STREET AND FORT LEE FERRY RAILWAY COMPANY.

Articles of association filed September 8, 1885.

To be built upon the surface of certain streets, in the city of New York, as set forth in their articles of association.

Length of road, about three miles.

Capital stock, \$500,000.

THE OTTAWA, ST. LAWRENCE AND SCHENECTADY RAILWAY COMPANY.

Articles of association filed February 10, 1885.

Commencing at a point on the St. Lawrence river in the county of St. Lawrence, and running by the most direct and convenient route to or near the villages of Canton, Russell, Pierrepont, Clare, Clifton, Harwood, Jamestown, Oakham and Atherton, county of St. Lawrence; thence through the towns of Long Lake, Indian Lake, Gilman, Wiles, Hope and Benson in Hamilton county; thence through the towns of Providence, Galway and Charlton, Saratoga county, and thence through the town of Glenville, Schenectady county, and terminating at or near the city of Schenectady.

Length of road, 190 miles.

Capital stock, \$5,000,000.

THE OSWEGO STREET RAILWAY COMPANY.

Articles of association filed May 7, 1885.

To be built along and upon certain streets in the city of Oswego, as laid down in their articles of association.

Length of road, two miles.

Capital stock, \$20,000.

THE PERTH AMBOY RAILROAD COMPANY.

Articles of association filed May 5, 1885.

Commencing at a point near Tottenville by connection with the Staten Island

railroad, and running thence by the most direct and feasible route to a point at or near Perth Amboy, New Jersey.

Length of road, two miles.

Capital stock, \$1,000,000.

THE RICHMOND COUNTY RAILROAD COMPANY.

Articles of association filed March 10, 1885.

Commencing at the waters of the Kill von Kull at or near the foot of Broadway, West New Brighton, and running through certain towns in the county of Richmond, to its terminus in the village of Richmond, as laid down in its articles.

Length of road, about fifteen miles.

Capital stock, \$150,000.

THE ROCKAWAY ELECTRIC RAILROAD COMPANY.

Articles of association filed December 27, 1884.

Commencing at a point at or near Far Rockaway railroad depot of the Long Island railroad, and running westerly between the Atlantic ocean and Jamaica bay by the most direct and convenient route to the point of the peninsula, with crossings from the ocean to the bay.

Length of road, about eight miles.

Capital stock, \$200,000.

THE ROCKLAND LAKE RAILROAD COMPANY.

Articles of association filed December 15, 1884.

Commencing at or near Conger's station, and running thence by the most direct and feasible route through the town of Clarkstown, and terminating near Rockland lake, in said town of Clarkstown, county of Rockland.

Length of road, one and three-quarter miles.

Capital stock, \$20,000.

THE SARATOGA AND ST. LAWRENCE RAILROAD COMPANY.

Articles of association filed August 17, 1885.

Commencing at a point on the Massena and Fort Covington Railroad in the town of Bombay, Franklin county, and running thence by the most direct and feasible route to a point near the junction of the Adirondack railroad with the Ogdensburgh railroad at Moira.

Length of road, eight miles.

Capital stock, \$80,000.

THE SOUTHERN BOULEVARD RAILROAD COMPANY.

Articles of association filed June 27, 1885.

The road begins on the Southern boulevard, New York city, at the upper end of the iron bridge crossing Harlem river, on line of Third avenue, and terminates at Boston avenue, said city.

Length of road, three and one-half miles.

Capital stock, \$250,000.

THE SYRACUSE, PHENIX AND OSWEGO RAILWAY COMPANY.

Articles of association filed February 16, 1885.

To commence at some convenient point in or near the village of Liverpool, county of Onondaga, and running thence north to a convenient point for crossing the Oneida river in the county of Oswego; thence by such route in said last-named county to a point on the line of the New York and Oswego Midland railroad, in the town of Volney, through the village of Phoenix, as shall be hereafter determined.

Length of road, sixteen miles.

Capital stock, \$400,000.

THE THIRTY-FIRST STREET RAILWAY COMPANY.

Articles of association filed August 6, 1885.

To be constructed, maintained and operated upon the surface of certain streets in the city of New York, as set forth in their articles of association.

Length of road, six miles.

Capital stock, \$500,000.

THE THIRTY-FOURTH STREET FERRY AND ELEVENTH AVENUE RAILROAD COMPANY.

Articles of association filed July 28, 1885.

To be constructed, maintained and operated upon the surface of certain streets and avenues in the city of New York, as stated in their articles.

Length of road, seven and one-half miles.

Capital stock, \$1,200,000.

THE TWENTY-EIGHTH AND TWENTY-NINTH STREETS CROSSTOWN RAILWAY COMPANY.

Articles of association filed September 8, 1885.

To be built upon the surface and along certain streets in the city of New York, as set forth in their articles of association.

Length of road, three miles.

Capital stock, \$750,000.

THE UNION PASSENGER RAILWAY TRANSFER COMPANY OF NEW YORK.

Articles of association filed June 25, 1885.

To be constructed, maintained and operated upon and along the surface of certain streets and avenues in the city and county of New York, as set forth in their articles of association.

Length of road, forty miles.

Capital stock, \$11,000,000.

THE UPTOWN FIFTH AVENUE RAILWAY COMPANY.

Articles of association filed September 28, 1885.

To be built upon the surface and along certain streets in the city of New York, as set forth in their articles of association.

Length of road, three and one-half miles.

Capital stock, \$2,500,000.

THE WARREN, SUGAR GROVE AND MAYVILLE RAILROAD COMPANY.

Articles of association filed March 21, 1885.

Commencing at or near Sugar Grove, Warren county, Penn., and running by the most direct and feasible route *via* Watts Flatts, Panama, Stedman and Chautauqua to village of Mayville, Chautauqua county.

Length of road, twenty-five miles.

Capital stock, \$75,000.

REORGANIZATION.

The following corporation has reorganized under foreclosure sale of mortgage :

THE NORTH SECOND STREET AND MIDDLE VILLAGE RAILROAD COMPANY.

The above road, after being sold under mortgage foreclosure, was reorganised under the corporate name of "The Brooklyn, Bushwick and Queens County Railroad Company."

Certificate of incorporation filed February 11, 1885.

CONSOLIDATIONS.

The following corporations have become consolidated with other corporations as named:

THE PENN YAN AND NEW YORK RAILWAY COMPANY.

Articles of consolidation of this company, with the Syracuse, Geneva and Corning Railway Company, were filed September 22, 1885.

LONG ISLAND CITY AND MANHATTAN BEACH; NEW YORK AND MANHATTAN BEACH; NEW YORK, BAY RIDGE AND JAMAICA RAILROAD COMPANIES.

The articles of consolidation of the above-named companies, into one organization, to be known as the New York, Brooklyn and Manhattan Beach Railway Company, were filed April 27, 1885.

OSWEGO RAILROAD BRIDGE COMPANY.

This company filed its articles of consolidation with the Rome, Watertown and Ogdensburgh Railroad Company, April 20, 1885.

EXTENSION OF ROUTES.

The following companies have availed themselves of the provisions of chapter 252, Laws of 1884, and have filed certificates in the office of the Secretary of State, setting forth contemplated extensions of their roads:

THE BINGHAMTON CENTRAL RAILROAD COMPANY.

Certificate of extension of route filed June 23, 1885.

Length of extension, two miles.

THE BROADWAY AND BOWERY BAY RAILROAD COMPANY.

Certificate of extension of route filed October 8, 1884.

Length of extension, two and one-half miles.

THE BROADWAY RAILROAD COMPANY OF BROOKLYN.

Certificate of extension of route filed September 8, 1885.

Length of extension, one and one-half miles.

THE BUSHWICK RAILROAD COMPANY OF BROOKLYN.

Certificate of extension of route filed June 13, 1885.

Length of extension, one and seventeen-hundredths of a mile.

THE FORTY-SECOND STREET AND GRAND STREET FERRY RAILROAD COMPANY.

Certificate of extension of route filed December 1, 1884.

Length of extension, one and one-quarter miles.

THE FORTY-SECOND STREET, MANHATTANVILLE AND ST. NICHOLAS AVENUE RAILWAY COMPANY.

Certificate of extension of route filed November 4, 1885.

Length of extension, eleven miles.

THE HARLEM BRIDGE, MORRISANIA AND FORDHAM RAILWAY COMPANY.

Certificate of extension of route filed August 4, 1885.

Length of extension, three miles.

THE HARLEM BRIDGE, MORRISANIA AND FORDHAM RAILWAY COMPANY.

Certificate of extension of route filed August 29, 1885.

Length of extension, five miles.

THE HOUSTON, WEST STREET AND PAVONIA FERRY RAILROAD COMPANY.

Certificate of extension filed September 5, 1885.

Length of extension, about one and one-half miles.

THE ROCHESTER CITY AND BRIGHTON RAILROAD COMPANY.

Certificate of extension of route filed June 10, 1885.

Length of extension, about one and one-half miles.

THE ROCHESTER CITY AND BRIGHTON RAILROAD COMPANY.

Certificate of extension of route filed July 27, 1885.

Length of extension, about one and two-third miles.

THE TWENTY-EIGHTH AND THIRTIETH STREETS RAILROAD COMPANIES.

Certificate of extension of route filed July 6, 1885.

Length of extension, about one-third of a mile.

ENACTMENTS.

1885.

New York, Ontario and Western railway: Authorization to exchange mortgage bonds for preferred stock.

Chap. 421. An act to authorize the New York, Ontario and Western Railway Company to exchange mortgage bonds for preferred stock, and to cancel such preferred stock.

New York and Oswego Midland railroad: Authorizing town of Hancock to compromise, retire, pay, purchase or refund outstanding bonds and coupons.

Chap. 507. An act to authorize the town of Hancock, in the county of Delaware, to compromise, retire, pay, purchase or refund outstanding bonds and coupons heretofore issued in the name and on the credit of such town, to aid in the construction of the New York and Oswego Midland railroad.

Penal Code amended.

Chap. 523. An act to amend the Penal Code.

Wallkill, town of, abolishing office of railroad commissioner.

Chap. 2. An act to abolish the office of railroad commissioners in and for the town of Wallkill, in the county of Orange, and to confer the powers and duties of said commissioners upon the supervisor of said town.

Corporations, in relation to receivers of.

Chap. 40. An act to amend chapter three hundred and seventy-eight of the laws of eighteen hundred and eighty-three, entitled "An act in relation to receivers of corporations."

Gainesville, to abolish office of railroad commissioner.

Chap. 81. An act to abolish the office of railroad commissioner for the town of Gainesville, in the county of Wyoming, and to confer the powers and duties of railroad commissioners upon the supervisor of said town.

Brooklyn City Railroad Company.

Chap. 139. An act to authorize the Brooklyn City Railroad Company to grant, sell and convey to the Broadway Railroad Company of Brooklyn, and the Broadway Railroad Company of Brooklyn to purchase of the Brooklyn City Railroad Company all the right, title and interest of the Brooklyn City Railroad Company in Cypress Hill extension, so called, in the town of New Lots, in the county of Kings, and the real estate hitherto used in connection therewith.

Hamlin, town of, abolishing office of railroad commissioner.

Chap. 214. An act to abolish the office of railroad commissioner for the town of Hamlin, in the county of Monroe, and to confer the powers and duties of railroad commissioners upon the supervisor of said town.

Buffalo, city of, street railroads in.

Chap. 229. An act in relation to street railroads in the city of Buffalo.

New York, Lackawanna and Western Railway Company.

Chap. 254. An act to authorize the commissioners of the land office to sell and convey to the New York, Lackawanna and Western Railway Company a right of way across the lands occupied by the New York Soldiers and Sailors' Home.

Auburn and Owasco Lake railway.

Chap. 265. An act to authorize the present owners of the capital stock of the Auburn and Owasco Lake railway to file an amended certificate of its incorporation in the office of the Secretary of State.

Railroad companies, street surface.

Chap. 305. An act authorizing street surface railroad companies to contract with each other, and providing for a proper system of transfer of passengers.

Eagle, town of, abolishing office of railroad commissioner.

Chap. 354. An act to abolish the office of railroad commissioner for the town of Eagle, in the county of Wyoming, and to confer the powers and duties of railroad commissioners upon the supervisor of said town.

Employees, operatives and laborers, to provide for payment of wages to.

Chap. 376. An act to provide for the payment of wages to employees, operatives and laborers of domestic corporations, other than insurance and moneyed corporations of which a receiver shall be appointed.

Brooklyn, city of; use of steam upon Atlantic avenue.

Chap. 410. An act in relation to use of steam upon Atlantic avenue, in the city of Brooklyn.

Andes, town of, inhabitants voting on proposition to refund railroad bonded indebtedness.

Chap. 415. An act to authorize the voters of the town of Andes to hold a special town meeting for the purpose of voting on a proposition to refund the existing railroad bonded indebtedness of said town.

Cooperstown and Susquehanna Valley railroad.

Chap. 452. An act in relation to the Cooperstown and Susquehanna Valley railroad and to extend the same.

Town clerk's offices; contracts for sale of personal property on credit, to be filed in.

Chap. 488. An act to amend chapter three hundred and fifteen of the laws of eighteen hundred and eighty-four, entitled "An act requiring contracts for the conditional sale of personal property on credit to be filed in the town clerk's and other offices."

Railroad companies; changing time and place for holding elections.

Chap. 498. An act to authorize a change in certain cases of the time and place for holding elections of railroad companies.

Authorizing the Catskill Mountain, and the Stony Clove and Catskill Mountain railroad companies to charge ten cents a mile for passengers.

Chap. 532. An act to amend an act, entitled "An act to authorize the Kaater-skill Railroad Company to charge and collect rates of fare for passengers upon its

road," passed February twenty-seven, eighteen hundred and eighty-three, and known as chapter sixty-six, by extending the provisions thereof so as to apply to the Catskill Mountain Railroad Company and the Stony Clove and Catskill Mountain Railroad Company.

Railroad companies; facilitating payment of school taxes by.

Chap. 533. An act further to amend chapter six hundred and seventy-five of the laws of eighteen hundred and eighty-one, entitled "An act to facilitate the payment of school taxes by railroad companies," as amended by chapter three hundred and nineteen of the laws of eighteen hundred and eighty-two.

Brooklyn Elevated Silent Safety railway, amending act of incorporation.

Chap. 539. An act to amend chapter five hundred and eighty-five of the laws of eighteen hundred and seventy-four, entitled "An act to incorporate the Brooklyn Elevated Silent Safety railway, for the purpose of providing rapid transit through the city of Brooklyn, Kings county, to Woodhaven, in the town of Jamaica, in the county of Queens, and the State of New York, and to provide for constructing and operating a railway therefor," and the acts amendatory thereof, and to amend chapter four hundred and fifty-nine of the laws of eighteen hundred and eighty, entitled "An act to restrict and regulate the rights of the Brooklyn Elevated Railway Company to lay their rails easterly of Schenck avenue and to and through Woodhaven avenue, in the town of Jamaica, county of Queens."

New York, county of; amending act to provide for collection and application of revenue in certain cases.

Chap. 554. An act to amend chapter eight hundred and fifty-five of the laws of eighteen hundred and sixty-eight, entitled "An act supplementary to chapter four hundred and eighty-nine of the laws of eighteen hundred and sixty-seven, and to provide for the collection and application of revenue in the county of New York, in certain cases."

Genesee Valley Canal railroad; extending time for construction.

Chap. 460. An act further extending the time for the construction of a portion of The Genesee Valley Canal railroad.

To improve and regulate Fourth avenue and Ninety-eighth street, New York city, by building bridge for foot passengers over cut at Ninety-eighth street.

Chap. 528. An act to improve and regulate the use of Fourth avenue at Ninety-eighth street in the city of New York.

Amending act to provide for raising taxes for use of State.

Chap. 359. An act to amend chapter three hundred and sixty-one of the laws of eighteen hundred and eighty-one, entitled "An act to amend chapter five hundred and forty-two of the laws of eighteen hundred and eighty, entitled 'An act to provide for raising taxes for the use of the State upon certain corporations, joint-stock companies and associations.'"

Amending act authorizing formation of corporations for constructing and operating railroads in foreign countries.

Chap. 369. An act to amend chapter four hundred and sixty-eight of the laws of eighteen hundred and eighty-one, entitled "An act to authorize the formation of corporations for the purpose of acquiring, constructing and operating railroads in foreign countries."

Amending act authorizing formation of New York and Canada Bridge Company.

Chap. 372. An act to amend chapter two hundred and sixty-five of the laws of eighteen hundred and eighty-two, entitled "An act to incorporate the New York and Canada Bridge Company, and to authorize said company to construct and maintain a bridge over the St. Lawrence river for railroad and other purposes."

Protecting stockholders of corporations from wrong-doing of directors.

Chap. 489. An act to protect stockholders of corporations from the wrong-doings of directors in certain cases.

Amending act providing for raising of taxes for use of State.

Chap. 501. An act to amend chapter one hundred and fifty-one, laws of eighteen hundred and eighty-two, entitled "An act to amend chapter three hundred and sixty-one, laws of eighteen hundred and eighty-one, entitled 'An act to amend chapter five hundred and forty-two of laws of eighteen hundred and eighty, entitled 'An act to provide for raising taxes for the use of the State upon certain corporations, joint-stock companies and associations.'"

Concerning tramps.

Chap. 490. An act concerning tramps.

Establishing a forest commission; powers of to compel railroad companies to clear its lands of grass, brush and other inflammable material.

Chap. 288. An act to establish a forest commission, and to define its powers and duties and for the preservation of forests.

TABLE showing date when the several railroads and extensions of same of this State were opened for public travel.

- 1831. The Mohawk and Hudson, 17 miles.
- 1832. The Saratoga and Schenectady, 22 miles, and 1 mile of the New York and Harlem;
- 1833. The New York and Harlem, 1 mile; Buffalo and Black Rock, 3 miles.
- 1834. The Ithaca and Oswego, 29 miles, and 2 miles of the New York and Harlem;
- 1835. The Rensselaer and Saratoga, 25 miles.
- 1836. The Utica and Schenectady, 78 miles; Medina and Darien, 20 miles.
- 1837. The Tonawanda, 44 miles; the Lewiston, 8 miles; 15 miles of the Long Island, and 2 miles of the New York and Harlem;
- 1838. The Hudson and Berkshire, 81 miles.
- 1839. The Syracuse and Utica, 53 miles, and 2 miles of the New York and Harlem;
- 1840. None.
- 1841. Forty-six miles of the New York and Erie, and 5 miles of the Long Island;
- 1842. The Albany and West Stockbridge, 38 miles; the Auburn and Rochester, 78 miles; the Schenectady and Troy, 21 miles; 10 miles of the Long Island, and 6 miles of the New York and Harlem;
- 1843. The Auburn and Syracuse, 26 miles; the Attica and Buffalo, 31 miles, and 7 miles of the New York and Erie;
- 1844. Fifty-two miles of the Long Island, and 12 miles of the New York and Harlem;
- 1845. The Cayuga and Susquehanna, 29 miles; the Buffalo and Niagara Falls, 22 miles; the Troy and Greenbush, 6 miles, and the Skaneateles and Jordan, 5 miles;
- 1846. The New York and Erie, 8 miles.
- 1847. The New York and Harlem, 25 miles.
- 1848. The Saratoga and Whitehall, 40 miles; the Oswego and Syracuse, 35 miles; 140 miles of the New York and Erie, and 29 miles of the New York and Harlem;
- 1849. The Chemung, 17 miles; 59 miles of the New York and Erie, and 75 miles of the Hudson River;
- 1850. The Northern Ogdensburgh, 118 miles; the New York and New Haven, 14 miles; 78 miles of the New York and Erie; 18 miles of the Watertown and Rome, and 69 miles of the Hudson River;
- 1851. The Canandaigua and Elmira, 47 miles; 128 miles of the New York and Erie, and 53 miles of the Watertown and Rome;
- 1852. The Buffalo and State Line, 69 miles; the Troy and Boston, 26 miles; the Plattsburgh and Montreal, 23 miles; the Sixth Avenue, 4 miles; 51 miles of the New York and Harlem; 20 miles of the Watertown and Rome, and 44 miles of the Buffalo, Corning and New York;
- 1853. The Albany Northern, 33 miles; the Troy and Bennington, 5 miles; the Troy Union, 2 miles; the Canandaigua and Niagara Falls, 99 miles; the

- Buffalo and New York City, 91 miles; the Rochester, Lockport and Niagara Falls, 77 miles; the Sackett's Harbor and Ellisburgh, 18 miles, and 46 miles of the Buffalo, Corning and New York;
1854. The Syracuse and Binghamton, 80 miles; the Flushing, 8 miles; the Brooklyn City, 17 miles, and the Third Avenue, 4 miles;
1855. Twenty-six miles of the Black River and Utica, and 30 miles of the Potsdam and Watertown;
1856. Nine miles of the Black River and Utica, and 24.50 miles of the Potsdam and Watertown;
1857. Two miles of the Brooklyn City, and 21 miles of the Potsdam and Watertown;
1858. The Buffalo, New York and Erie, 11 miles.
1859. The Genesee Valley, 15.50 miles; the Ninth Avenue, 3.50 miles, and the Broadway Railroad of Brooklyn, 4.50 miles;
1860. The Atlantic and Great Western in New York, 49 miles; the Staten Island, 13 miles; 4 miles of the Brooklyn Central and Jamaica; 5 miles of the Brooklyn City, and 1 mile of the Ninth Avenue;
1861. Four miles of the Brooklyn City, and 5 miles of the Warwick Valley;
1862. Coney Island and Brooklyn, 10.50 miles; 5 miles of the Brooklyn City and Newtown; 17.50 miles of the Rome, Watertown and Ogdensburg, and 5 miles of the Warwick Valley;
1863. Albany and Susquehanna, 35 miles; Brooklyn, Bath and Coney Island, 4 miles; Forty-second Street and Grand Street Ferry, 7 miles; Rochester City and Brighton, 6.50 miles; Utica City, 2 miles; Van Brunt Street and Erie Basin, 1.50 miles;
1864. Albany and Susquehanna, 1 mile; Broadway and Seventh Avenue, 8 miles; Brooklyn, Bath and Coney Island, 2.50 miles; Central Park, North and East River, 19 miles; Forty-second Street and Grand Street Ferry, 1 mile; Long Island, 5.50 miles; Harlem Bridge, Morrisania and Fordham, 5 miles; Troy and Cohoes, 3.50 miles; Utica City, 2 miles;
1865. Adirondack Company, 25 miles; Albany Railway, 3 miles; Albany and Susquehanna, 46 miles; Oswego and Rome, 18 miles; Saratoga and Hudson River, 26 miles;
1866. Albany and Susquehanna, 16.53 miles; Brooklyn and Rockaway Beach, 3.50 miles; Buffalo, Bradford and Pittsburgh, 8 miles; North Shore, 6.25 miles; Oswego and Rome, 10.58 miles; Albany Railway, 2.48 miles; Bleecker Street and Fulton Ferry, 3.50 miles; Brooklyn City, 0.75 miles; Dry Dock, East Broadway and Battery, 4.72 miles;
1867. Albany and Susquehanna, 9.48 miles; Buffalo, Corry and Pittsburgh, 36.70 miles; Long Island, 10 miles; Middletown, Unionville and Water Gap, 6 miles; Montgomery and Erie, 10.27 miles; New York, Housatonic and Northern, 5 miles; Schoharie Valley, 4.88 miles; Utica, Chenango and Susquehanna Valley, 12 miles;
1868. Albany and Susquehanna, 17 miles; Black River and Woodhull, 7.50 miles; Buffalo, Corry and Pittsburgh, 6.50 miles; Buffalo and Washington, 16.03 miles; Long Island, 6 miles; Middleburgh and Schoharie, 5 miles; Middletown, Unionville and Water Gap, 7 miles; Skaneateles, 5 miles; South Side, 53 miles; Utica and Black River, 9.76 miles; Utica, Chenango and Susquehanna Valley, 31 miles; Whitehall and Plattsburgh, 15.56 miles;
1869. Adirondack Company, 12 miles; Albany and Susquehanna, 17 miles; Black River and St. Lawrence, 1.75 miles; Black River and Woodhull, 3 miles;

Clove Branch, 4.25 miles; Cooperstown and Susquehanna Valley, 16 miles; Dutchess and Columbia, 43 miles; Far Rockaway Branch, 6 miles; Flushing and North Side, 8 miles; Glen's Falls, 5.77 miles; Goshen and Deckertown, 11.64 miles; Greenwich and Johnsonville, 0.25 mile; Lake Champlain and Moriah, 7 miles; Lebanon Springs, 57 miles; Middleburgh and Schoharie, 75 miles; New York and Oswego Midland, 100 miles; Kensselaer and Saratoga, 6 miles; Rondout and Oswego, 13 miles; Southern Central, 25 miles; Southfield Branch, 1 mile; South Side, 4 miles; Utica and Black River, 14.36 miles; Utica, Chenango and Susquehanna Valley, 13 miles; Valley, 1.50 miles; Wallkill Valley, 11.50 miles; Whitehall and Plattsburgh, 4.44 miles;

1870. Adirondack Company, 12 miles; Black River and St. Lawrence, 11.25 miles Buffalo Creek, 3.25 miles; Carthage, Watertown and Sackett's Harbor, 8.14 miles; Cazenovia and Canastota, 15 miles; Cherry Valley, Sharon and Albany, 20.91 miles; Flushing and North Side, 0.85 mile; Fonda, Johnstown and Gloversville, 10 miles; Greenwich and Johnsonville, 13.75 miles; Hempstead and Rockaway, 5.50 miles; Lake Champlain and Moriah, 0.18 mile; Long Island, 85 miles; Monticello and Port Jervis, 12 miles; New York and Oswego Midland, 110 miles; Nyack and Northern, 4.33 miles; Oswego and Syracuse, 7.64 miles; Poughkeepsie and Eastern, 15.26 miles; Rondout and Oswego, 21.03 miles; Southern Central, 43 miles; Utica, Chenango and Susquehanna Valley, 11 miles; Valley, 9.50 miles; Wallkill Valley, 6 miles;

1871. Adirondack Company, 11 miles; Avon, Geneseo and Mount Morris, 8.50 miles; Buffalo, New York and Philadelphia, 12.06 miles; Carthage, Watertown and Sackett's Harbor, 4 miles; Dunkirk, Warren and Pittsburg, 54.80 miles; Dutchess and Columbia, 15 miles; Erie and Genesee Valley, 7 miles; Greene, 8 miles; Ithaca and Athens, 35 miles; Ithaca and Cortland, 20 miles; Junction, 7.67 miles; Lackawanna and Susquehanna, 11.75 miles; Monticello and Port Jervis, 11.75 miles; New York and Mahopac, 6.97 miles; New York and Oswego Midland, 54 miles; Poughkeepsie and Eastern, 5.57 miles; Rochester and Pine creek, 6.25 miles; Rome and Clinton, 13.03 miles; Rondout and Oswego, 26.97 miles; Schenectady and Susquehanna, 8 miles; Southern Central, 27 miles; Spuyten Duyvil and Port Morris, 6 miles; Suspension Bridge and Erie Junction, 28.50 miles; Syracuse and Chenango Valley, 12 miles; Syracuse Northern, 40 miles; Utica and Black River, 15.75 miles; Utica, Chenango and Susquehanna Valley, 1 mile; Valley, 0.50 mile; Wallkill Valley, 6.50 miles;

1872. Black River and Morristown, 8 miles; Buffalo, New York and Philadelphia, 59.91 miles; Cayuga Lake, 13 miles; Central of Long Island, 23 miles; Erie and Genesee Valley, 5.25 miles; Ithaca and Athens, 0.63 mile; Lackawanna and Susquehanna, 5.70 miles; Lake Ontario Shore, 1.06 miles; Middletown and Crawford, 10.22 miles; New York and Hempstead, 5.50 miles; New York, Kingston and Syracuse, 14 miles; New York and Oswego Midland, 72 miles; Poughkeepsie and Eastern, 21.02 miles; Schenectady and Susquehanna, 12 miles; Smithtown and Port Jefferson, 4 miles; Sodus Point and Southern, 25 miles; Southern Central, 21 miles; Syracuse and Chenango Valley, 14 miles; Syracuse Northern, 4.40 miles; Utica, Chenango and Susquehanna Valley, 30 miles; Utica, Ithaca and Elmira, 20 miles; Wallkill Valley, 8.10 miles;

1873. Buffalo Creek, 0.50 mile; Buffalo and Jamestown, 25 miles; Buffalo, New York and Philadelphia, 32.55 miles; Cayuga Lake, 26 miles; Central Extension, 8 miles; Clayton and Theresa, 15.86 miles; Geneva and Ithaca, 40 miles; Harlem River and Port Chester, 11.80 miles; Jersey City and Albany, 12.50 miles; Lackawanna and Susquehanna, 4.26 miles; Lake Ontario Shore, 50.24 miles; New York, Boston and Montreal, 20.75

miles; New York and Canada, 17 miles; New York and Oswego Midland, 37 miles; New York and Rockaway, 10 miles; Renaselaer and Saratoga, 1.41 miles; Rochester, Nunda and Pennsylvania, 10 miles; Smithtown and Port Jefferson, 15 miles; Sodus Point and Southern, 10 miles; South Side, 16 miles; Utica and Black River, 12.25 miles; West Troy and Green Island, 1.07 miles;

1874. Buffalo and Jamestown, 5 miles; Carthage, Watertown and Sackett's Harbor, 12 miles; Flushing, North Shore and Central, 23.90 miles; New-town and Flushing, 4 miles; Rhinebeck and Connecticut, 28 miles; Rochester, Nunda and Pennsylvania, 10 miles; Rochester and State Line, 24.10 miles; Syracuse and Chenango, 17.49 miles; Syracuse Junction, 7.81 miles; Utica, Ithaca and Elmira, 10 miles;

1875. Bath and Hammondsport, 9.40 miles; Black River and Morristown, 14.10 miles; Buffalo and Jamestown, 86.50 miles; Gloversville and Northville, 10 miles; New Jersey and New York, 15.25 miles; New York and Canada, 50.60 miles; Rhinebeck and Connecticut, 7.20 miles; Rome, Watertown and Ogdensburgh, 22.55 miles; Utica, Ithaca and Elmira, 22 miles;

Horse Roads.

Albany, 1.25 miles; Brooklyn City, 3.50 miles; Buffalo East Side, 5.20 miles; Bushwick, 0.50 mile; Central Crosstown, 2.40 miles; Elmira and Horseheads, 0.78 mile; Fonda and Fultonville, 1 mile; Gloversville and Kingsboro, 2.34 miles; Grand Street and Newtown, 1 mile; Long Island City Shore, 5 miles; Prospect Park and Coney Island, 0.95 mile; Rochester City and Brighton, 1.75 miles; Second Avenue, 1 mile; South Ferry, 0.85 mile; Washington Street and State Asylum, 2 miles;

1876. Atlantic and Great Western, 8 miles; Black River and Morristown, 23 miles; Flushing, North Shore and Central, 1.69 miles; Garnerville, 0.91 mile; Gloversville and Northville, 6.83 miles; Lake Champlain and Moriah, 0.62 mile; Lake Shore and Michigan Southern, 1.41 miles; Long Island, 7.80 miles; New York, Bay Ridge and Jamaica, 2.25 miles; Lake Ontario, branch of Rome, Watertown and Ogdensburgh, 89.53 miles; Southern of Long Island, 0.51 mile;

Horse Roads.

Albany, 0.25 mile; Atlantic Avenue, 1.50 miles; Buffalo and East Side, 0.92 mile; Bushwick, 8 miles; Fifth Ward, 0.65 mile; Grand Street and Newtown, 3 miles; New York Elevated, 1 mile;

1877. Buffalo Erie Basin, 0.11 mile; Long Island, 4.21 miles; New York, Bay Ridge and Jamaica, 5.91 miles; Rome, Watertown and Ogdensburgh, 2.12 miles;

Horse Roads.

Central Park, North and East River, 1 mile; New York Elevated, 0.71 mile; Troy and Lansingburgh, 0.80 mile; Utica and Mohawk, 0.50 mile;

1878. Brooklyn, Flatbush and Coney Island, 7.50 miles; Brooklyn and Rockaway Beach, 2.65 miles; Cazenovia, Canastota and De Ruyter, 14.25 miles; Geneva and Lyons, 16.91 miles; Glendale and East River, 2.70 miles; Marine, 1.60 miles; Metropolitan Elevated, 5 miles; New York Elevated, 6.87 miles; Olean, Bradford and Warren, 12.53 miles; Rochester and State Line, 82.53 miles; Syracuse, Geneva and Corning, 27.25 miles;

Horse Roads.

Atlantic Avenue, 1.25 miles; Broadway (of Brooklyn), 2.24 miles; Bushwick, 2.25 miles; One Hundred and Twenty-fifth Street, 0.25 mile; Rochester City and Brighton, 1.50 miles; South Brooklyn Central, 0.50 mile; Washington Street and State Asylum, 0.25 mile;

Steam Roads.

1879 Boston, Hoosac Tunnel and Western, 33 miles; Chateaugay, 9.70 miles; Clove Branch, 4.01 miles; Jersey City and Albany, 9 miles; Long Island, 2.06 miles; Metropolitan Elevated, 2.82 miles; New York and Coney Island, 2.41 miles; New York Elevated, 4.86; New York and Sea Beach, 6 miles; Rochester and Lake Ontario, 5.93 miles; Springville and Sardinia, 11.57 miles;

Horse Roads.

Buffalo East Side, 1.78 miles; Bushwick, 8 miles; Central City, 0.63 mile; Coney Island and Brooklyn, 0.41 mile; Jackson and Steinway Avenue, 2.50 miles; Prospect Park and Coney Island, 2.41 miles; Rochester City and Brighton, 0.62 miles;

Steam Roads.

1880. Boston, Hoosac Tunnel and Western, 14.09 miles; Chateaugay, 8.71 miles; Lockport and Buffalo, 13.89 miles; New York and Long Beach, 6.09 miles; New York and Brighton Beach, 2.85 miles; New York Elevated, 9.45 miles; Tonawanda Valley, 19.18 miles;

Horse Roads.

Albany, 1.11 miles; Coney Island, Sheepshead Bay and Ocean Avenue, 1.39 miles; Forty-second Street, Manhattanville and St. Nicholas Avenue, 1 mile; Jerome Park, 1.08 miles; Lansingburgh and Cohoes, 1.10 miles; Olean Street, 1.25 miles; Prospect Park and Flatbush, 1.50 miles; Yates Avenue and Flatbush, 1.50 miles;

Steam Roads.

1881. Bradford, Eldred and Cuba, 5.74 miles; Buffalo Creek, .50 mile; Buffalo, Pittsburgh and Western, 3.50 miles; Canal, 5.28 miles; Coney Island Elevated, 1 mile; Friendship, 11.30 miles; Herkimer, Newport and Poland Narrow Gauge, 8.75 miles; Long Island (Brooklyn and Montauk Extension), 15.50 miles; Mayville Extension, 3.50 miles; New York City and Northern, 51.38 miles; New York, Lackawanna and Western, 45 miles; New York, Lake Erie and Western (in New Jersey), 10 miles; New York, Pennsylvania and Ohio (in Pennsylvania), 5.56 miles; New York, Woodhaven and Rockaway, 16.80 miles; Port Dickinson and Chenango River, .50 mile; Tonawanda Valley and Cuba, 6.42 miles; Wellsville, Bolivar and Eldred, 16 miles; West Side and Yonkers, 1.16 miles.

Horse Roads.

Atlantic Avenue of Brooklyn, 1.75 miles; Buffalo East Side, .52 mile; Bushwick, 1.50 miles; Forty-second Street, Manhattanville and St. Nicholas Avenue, 1 mile; Rochester City and Brighton, .94 mile.

Steam Roads.

1882. Allegany Central, 28.60 miles; Amsterdam, Chuctanunda and Northern, 1.50 miles; Boston, Hoosac Tunnel and Western, 11.14 miles; Bradford, Eldred and Cuba, 17.97 miles; Buffalo Lehigh, .10 mile; Buffalo, Piusburgh and Western, 62 miles; Catskill Mountain, 15.36 miles; Cayuga and Susquehanna, .70 mile; Conesus Lake, 1.50 miles; Genesee Valley Canal, 98.91 miles; Glens Falls, 9.38 miles; Herkimer, Newport and Poland, 7.98 miles; Long Beach Marine, 4 miles; New York City and Northern, 1.62 miles; New York, Lackawanna and Western, 165.82 miles; New York and New England, 26.30 miles; Niagara Falls Branch, 8 miles; Perry, 1.08 miles; Rochester, New York and Pennsylvania, 11.75 miles; Rochester and Pittsburgh, 16.19 miles; Saratoga Lake, 3.90 miles; Saratoga, Mount McGregor and Lake George, 10.50 miles; Schenectady and Mechanicville, 9.98 miles; Stony Clove and Catskill Mountain, 14.30 miles; Tonawanda Valley and Cuba, 33.54 miles; Wellsville, Bolivar and Eldred, 4.62 miles.

Horse Roads.

Atlantic Avenue of Brooklyn, 1.25 miles; Buffalo East Side, 1.61 miles; Cortland and Homer, 2.66 miles; North Second Street and Middle Village, .64 mile; New Williamsburgh and Flatbush, .90 mile; Park Avenue, .68 mile; Rochester City and Brighton, .70 mile; Van Brunt Street and Erie Basin, .25 mile.

Steam Roads.

1883. Addison and Northern Pennsylvania, 10.50 miles; Boston, Hoosac Tunnel and Western, 10.97 miles; Buffalo Creek Transfer, .50 mile; Buffalo, New York and Philadelphia, 16.65 miles; Connecting Terminal, 1 mile; Genesee Valley Terminal, 2.46 miles; Kaaterskill, 7.50 miles; Long Island City and Manhattan Beach, 1.46 miles; New York, Chicago and St. Louis, 68.07 miles; New York, West Shore and Buffalo, 365.37 miles; Rome, Watertown and Ogdensburgh, 3.60 miles; Rochester and Ontario Belt, 6 miles; Rochester and Pittsburg, 47.28 miles.

Horse Roads.

Atlantic Avenue, 3.50 miles; Binghamton Central, 1.50 miles; Brooklyn City, 1 mile; Buffalo East Side, 1.97 miles; Broadway and Bowery Bay, 2.70 miles; New Williamsburgh and Flatbush, 1.33 miles; Niagara Falls and Suspension Bridge, 1.99 miles; Rochester City and Brighton, 3.13 miles; Steinway Avenue and Bowery Bay, 2.50 miles; Stillwater and Mechanicville, 3.49 miles.

Steam Roads.

1884. Island, .71 mile; New York, West Shore and Buffalo, 88.58 miles; Northern Adirondack, 11.93 miles; Owasco River, .50 mile; Staten Island Rapid Transit, 1.17 miles.

Horse Roads.

City of Binghamton, 1 mile; Jamestown Street, 2.07 miles.

STEAM ROADS, 1885.

	Miles.
Brooklyn City Elevated	
Cairo	3.78
Hobart Branch	3.61
New York and Atlantic	1.75
New York Central, Hudson River and Fort Orange	0.60
Penn Yan and New York	6.50
Syracuse, Phoenix and Oswego	16.00

HORSE ROADS, 1885.

Broadway Surface	3.00
Forty-second Street, Manhattanville and St. Nicholas Avenue	9.50
Oneida	1.50
Oswego ..	2.03

LIST OF COMPANIES FORMED UNDER THE LAWS OF THIS STATE.

COMPANIES FORMED.

409

NAME OF ROAD.	Where Located.	Remarks.
1826.		
Mohawk and Hudson.....	Albany to Schenectady.....	Name changed to Albany and Schenectady in 1847.
1828.		
Canandaigua Railway and Transportation Co.....	Canandaigua and Erie Canal.....	Extinct.
Catskill and Ithaca.....	Catskill to Ithaca.....	Extinct.
Geneva and Canandaigua.....	Geneva to Canandaigua.....	Extinct.
Great Ausable.....	From Forks of Great Ausable to Port Kent on Lake Champlain.....	Extinct.
Hudson and Berkshire.....	Hudson to West Stockbridge, Mass.....	Reorganized as the Hudson and Boston in 1854.
Ithaca and Oswego.....	Ithaca to Oswego.....	Name changed to Cayuga and Susquehanna in 1842.
1829.		
Madison County.....	Chittenango to Cazenovia.....	Extinct.
Port Byron and Auburn.....	Port Byron to Auburn.....	Extinct.
Salina and Port Watson.....	Salina to Port Watson.....	Extinct.
1830.		
Canajoharie and Catskill.....	Canajoharie to Catskill.....	Partly built, and abandoned.
Hudson and Delaware.....	Newburgh to Delaware River.....	Extinct.
1831.		
Bath and Crooked Lake.....	Bath to head of Crooked Lake.....	Extinct.
New York and Harlem.....	Twenty-third Street to Harlem River.....	Incorporation. That part operated by steam leased to New York Cent. and Hudson Riv. R. R. Co.
Rochester and Canal.....	Rochester.....	Name changed to Rochester Railroad in 1833.
Saratoga and Schenectady.....	Saratoga Springs to Schenectady.....	Leased to R. & S., and operated by D. & H. Canal Co.
Troy Turnpike and Railroad.....	Troy to west line of Vermont.....	Abandoned.
1832.		
Albion and Tonawanda.....	Albion to Batavia.....	Extinct.
Auburn and Canal.....	Auburn to Erie Canal.....	Extinct.
Aurora and Buffalo.....	Aurora to Buffalo.....	Extinct.
Black River Company.....	Black River to meet at Ogdensburg.....	Extinct.
Brooklyn and Amsterdam.....	Brooklyn to Jamaica.....	Consolidated into Brooklyn Central and Jamaica in 1880.
Buffalo and Buffalo.....	Buffalo to Buffalo.....	Consolidated with L. S. and M. S. in 1880.
Danville and Rochester.....	Danville to Pennsylvania State Line.....	Extinct.
Dutchess.....	Rochester to Dutchess.....	Extinct.
Elmira and Williamsport.....	Elmira to Connecticut State Line.....	Extinct.
Elmira and Amsterdam.....	Elmira to Pennsylvania State Line.....	Extinct.
Ithaca and Geneva.....	Fish House to Amsterdam.....	Extinct.
Ithaca and Oswego.....	Ithaca to Geneva.....	Extinct.
Lake Champlain and Ogdensburg.....	Lake Champlain to St. Lawrence River.....	Extinct.

LIST OF COMPANIES formed under the Laws of this State — (Continued).

NAME OF ROAD.	Where Located.	Remarks.
Mayville and Portland...	Portland Harbor to Mayville.....	Extinct.
New York and Albany.....	New York to Albany.....	Reorganized as Erie Railroad in 1860.
New York and Erie.....	New York to Lake Erie.....	Extinct.
Osego.....	Cooperstown to Colliersville.....	Extinct.
Rensselaer and Saratoga.....	Troy to Ballston Spa.....	Leased and operated by Delaware and Hudson Canal Co.
Saratoga and Fort Edward.....	Saratoga to Fort Edward.....	Extinct.
Saratoga Springs and Schuylerville.....	Saratoga Springs to Schuylerville.....	Extinct.
Schoharie and Otsego.....	From Canajoharie and Catskill Railroad to Susquehanna River.....	Extinct.
Tonawanda.....	Rochester to Attica.....	Consolidated into Buffalo and Rochester in 1850.
Utica and Susquehanna.....	Utica to New York and Erie Railroad.....	Extinct.
Warren County.....	Glen's Falls to Caldwell.....	Extinct.
Watertown and Rome.....	Rome to Watertown.....	Consolidated into Rome, Watertown and Ogdensburg in 1860.
1853.		
Binghamton and Susquehanna.....	Binghamton to Pennsylvania State Line.....	Extinct.
Buffalo and Black Rock.....	Buffalo to Black Rock.....	Extinct.
Rochester.....	Rochester.....	Formerly Rochester and Canal Railroad; extinct.
Utica and Schenectady.....	Schenectady to Utica.....	Consolidated into New York Central Railroad in 1853.
Whitehall and Rutland.....	Whitehall to Vermont Line.....	Extinct.
1854.		
Auburn and Syracuse.....	Auburn to Syracuse.....	Name changed to Rochester and Syracuse in 1850.
Buffalo and Niagara Falls.....	Buffalo to Niagara Falls.....	Consolidated into New York Central in 1855.
Castleton and West Stockbridge.....	Castleton to West Stockbridge, Mass.....	Name changed to Albany and West Stockbridge in 1838.
Ithaca and Port Renwick.....	Head of Cayuga Lake to Ithaca.....	Extinct.
Long Island.....	Greenport to Brooklyn.....	In operation.
Lockport and Niagara Falls.....	Lockport to Niagara Falls.....	Changed to Rochester, Lockport and Niagara Falls in 1850.
Manheim and Salisbury.....	From Utica and Schenectady Railroad to Nicholsville.....	Name changed to Mohawk & St. Lawrence Railroad in 1837.
Medina and Darlet.....	Medina to Alexander and Buffalo Road.....	Extinct.
Saratoga and Washington.....	Saratoga Springs to Whitehall.....	Reorganized as Saratoga and Whitehall in 1855.
Warsaw and Le Roy.....	Warsaw to Le Roy.....	Extinct.
1855.		
Kington Turnpike and Railroad Company.....	Kington	Extinct.
1856.		
Albany and West Stockbridge.....	Greenbush to West Stockbridge.....	Formerly Castleton and West Stockbridge; consolidated into Boston and Albany in 1871.
Attica and Buffalo.....	Attica to Buffalo.....	Consolidated into Buffalo and Rochester in 1860.
Attica and Sheldon.....	Attica to Sheldon.....	Extinct.

Auburn and Rochester.....	Auburn to Rochester.....	Extinct.
Black River.....	Carthage to Cornelia.....	Extinct.
Brewster and Syracuse.....	Crofton Bridge to Syracuse.....	Extinct.
Brooklyn, Fort Hamilton, Bath and Coney Island.....	Brooklyn Coney Island.....	Extinct.
Cassadaga and Erie.....	Cassadaga Creek to west bounds of Chau- taugus county.....	Extinct.
Cherry Valley and Susquehanna.....	Palatine to Erie Road.....	Extinct.
Coeymans.....	Conemaugh and Mossy Hill.....	Extinct.
Delaware.....	Delhi to Deposit.....	Extinct.
Dutchess.....	Poughkeepsie to Connecticut State Line.....	Extinct.
Fredonia and Van Buren.....	Fredonia to Van Buren Harbor, on Lake Erie.....	Extinct.
Genesee and Pittsford.....	Genesee to Pittsford.....	Extinct.
Herkimer and Trenton.....	Herkimer to Trenton.....	Extinct.
Honeoye.....	East Mendon to Hemlock Lake.....	Extinct.
Ithaca and Auburn.....	Ithaca to Auburn.....	Extinct.
Janesville.....	Janesville to Erie Canal.....	Extinct.
Johnstown.....	Johnstown to Utica and Schenectady R.R. Levinston to Lockport and Niagara Falls R. R.....	Extinct.
Lockport.....	Batavia to Lockport.....	Extinct.
Lockport and Batavia.....	Lockport to Youngstown.....	Extinct.
Lockport and Youngstown.....	Medina to Lake Ontario.....	Extinct.
Medina and Lake Ontario.....	Vienna to Lake Ontario.....	Extinct.
Newark.....	Oswego to Utica.....	Extinct.
Oswego and Cortland.....	Oswego to Cortland or Homer.....	Extinct.
Rochester and Charlotte.....	Rochester to Charlotte.....	Extinct.
Rutland and Whitehall.....	Whitehall to Vermont Line.....	Extinct.
Saratoga and Montgomery.....	Ballston Spa to Fish House.....	Extinct.
Schenectady and Troy.....	Schenectady to Green Island.....	Extinct.
Scottsville and LeRoy.....	Scottsville to Le Roy.....	Extinct.
Skaneateles.....	Skaneateles to Auburn and Syracuse R.R. Name changed to Skaneateles and Jordan R. R. in 1841. In operation.....	Extinct.
Staten Island.....	Town of Smithfield to town of Westfield.....	Extinct.
Syracuse Stone.....	Syracuse to Stone Quarries.....	Extinct.
Syracuse, Cortland and Binghamton.....	Syracuse to Binghamton.....	Extinct.
Syracuse and Onondaga.....	Syracuse to Stone Quarries.....	Extinct.
Syracuse and Utica.....	Syracuse to Utica.....	Extinct.
Troy and Stockbridge.....	Troy to Vermont Line.....	Extinct.
Ulster County.....	Hudson River to N. Y. and E. R. R.....	Extinct.
Unadilla and Schoharie.....	Unadilla River to Schoharie Creek.....	Extinct.
Watervliet and Schenectady.....	West Troy to Schenectady.....	Extinct.
Watertown and Cape Vincent.....	Watertown to Cape Vincent.....	Extinct.
Chemung and Ithaca.....	Ithaca to Pennsylvania State Line.....	Extinct.
Cooperstown and Cherry Valley.....	Cooperstown to C. V. and S. R. R.....	Extinct.
Coxsackie and Schenectady.....	Coxsackie to Schenectady.....	Extinct.
Erie and Cattaraugus.....	Aurora to Yorkshire.....	Extinct.
Geneva and Cattaraugus.....	Attica and S. R. R. to Huesdale.....	Extinct.
Goshen and New Jersey.....	Goshen to N. J. State Line.....	Extinct.

1837.

LIST OF COMPANIES formed under the Laws of this State — (Continued).

NAME OF ROAD.	Where located.	Remarks.
Jordan and Skaneateles Malden Mohawk and St. Lawrence R. R. and Navigation Co. Penfield and Canal Rochester and Lockport Rome and Port Ontario Trenton and Sackett's Harbor Tyrona and Geneva Warwick	Jordan to Skaneateles R. R. Walden to Escopuskill U. and S. R. R. to Piseco Lake Penfield to Erie Canal Rochester to Lockport Rome to Port Ontario Trenton to Sackett's Harbor Geneva to N. Y. and E. R. R. Warwick to N. Y. and E. R. R.	Extinct. Extinct. Formerly Manheim and Salisbury R. R. Extinct. Extinct. Now part of the New York Central and Hudson River R. R. Extinct. Extinct. Extinct. Extinct.
1888. Buffalo and Batavia Greene Scottsville and Canandaigua Sharon and Root	Buffalo to Batavia Greene to N. Y. and E. R. R. Scottsville to Attica and Rochester R. R. Great Western Turnpike to C. and C. R. R. in town of Root.	Extinct. Extinct. Extinct. Extinct. Extinct.
1889. Adirondack Cold Spring Gilboa Oswego and Syracuse	Adirondack Iron Works to Clear Pond, Essex Co. Cattaraugus Co. Gilboa to Potter's Hollow Oswego to Syracuse	Now part of the Adirondack R. R. Extinct. Extinct. Leased to Delaware, Lackawanna and Western. In operation. Formerly Skaneateles. Extinct.
1841. Skaneateles and Jordan	Skaneateles to Jordan	Extinct.
1842. Goshen and Albany	Albany to Goshen	Extinct.
1843. Cayuga and Susquehanna	Ithaca to Oswego	Formerly Ithaca and Oswego. Leased to Delaware, Lackawanna and Western. In operation.
1845. Attica and Hornellsville Canandaigua and Corning	Attica to Hornellsville Canandaigua to Corning	Name changed to Canandaigua and Elmira in 1861. Now Elmira, Jefferson and Canandaigua. Leased to Northern Central R. R. Reorganized as Ogdensburgh and Lake Champlain in 1864. Leased to New York Central and Hudson River R. R.
Chemung Northern Troy and Greenbush	Jefferson to N. Y. and E. R. R. Ogdensburgh to Lake Champlain Troy to Greenbush	
1844. Buffalo and Hinsdale	Buffalo to Hinsdale	Extinct.

Hudson River.....	New York to Albany.....	Consolidated into the N. Y. Cent. and H. R. R. in 1869.
New York and Connecticut.....	Conn. State Line to Harlem R. R.....	Extinct.
Northern Slackwater and R. R. Co.....	Port Kent to Moose River.....	Extinct.
Schenectady and Catskill.....	Schenectady to Catskill.....	Extinct.
Schenectady and Susquehanna.....	Schenectady to N. Y. and E. R. R.....	Extinct.
Albany and Schenectady.....	Albany to Schenectady.....	Formerly Mohawk & Hud. Consolidated into N. Y. Cent. in 1853.
Genesee.....	Genesee to Genesee Valley Canal.....	Extinct.
Buffalo and State Line.....	Buffalo to Pennsylvania State Line.....	Consolidated into Buffalo and Erie in 1867.
Niagara Falls and Lewiston.....	Niagara Falls to Lewiston.....	Extinct.
Troy and Boston.....	Troy to Mass. State Line.....	In operation.
Troy and Rutland.....	Troy to Vermont State Line.....	Extinct.
Albany, Bennington and Rutland.....	Albany to Vermont State Line.....	Extinct.
Batavia and Cheektowaga.....	Batavia to Cheektowaga.....	Extinct.
Buffalo and Conhoughton Valley.....	Buffalo to Corning.....	Name changed to Buffalo, Corning and New York in 1853.
Buffalo and Rochester.....	Buffalo to Rochester.....	Formerly Attica and Buffalo, and the Tonawanda. Consolidated into New York Central Railroad in 1853.
Plattsburgh and Montreal.....	Plattsburgh to Canada Line.....	Reorganized as Montreal and Plattsburgh in 1853.
Rochester, Lockport and Niagara Falls.....	Lockport to Niagara Falls.....	Formerly Lockport and Niagara Falls. Consolidated in New York Central in 1853.
Rochester and Syracuse.....	Syracuse to Rochester.....	Formerly Auburn and Rochester, which consolidated with Rochester and Syracuse into the N. Y. C. R. R. in 1853.
Syracuse and Rochester Direct.....	Syracuse to Rochester.....	The property of this road was transferred to the Rochester and Syracuse in 1850.
Williamsport and Elmira.....	Elmira, N. Y., to Williamsport, Pa.....	Reorganized as Elmira and Williamsport in 1850.
Albany and Northern.....	Albany to Eagle Bridge.....	Name changed to Albany, Vermont and Canada in 1856.
Albany and Susquehanna.....	Albany to Binghamton.....	Leased to Delaware and Hudson Canal Company.
Buffalo and New York.....	Buffalo to New York.....	Extinct.
Buffalo and New York City.....	Buffalo to New York.....	Name changed from Attica and Hornellsville. That portion from Buffalo to Attica was sold to the Buffalo, New York and Erie. That portion from Attica to Hornellsville changed to Buffalo Branch of the Erie.
Canandaigua and Niagara Falls.....	Canandaigua to Niagara Bridge.....	Reorganized as Niagara Bridge and Canandaigua R. R. in 1858.
Champlain and St. Lawrence.....	Rouse's Point to Canada Line.....	Extinct.
Chautauqua County.....	Center of Sillindan to Penn. State Line.....	Abandoned.
Corning and Blossburgh.....	Corning to Pennsylvania State Line.....	Name changed to Blossburgh and Corning in 1854.
Mohawk Valley.....	Utica to Schenectady.....	Consolidated into New York Central in 1853.
Plattsburgh and Rouse's Point.....	Plattsburgh to near Rouse's Point.....	Abandoned.
Rochester and Genesee Valley.....	Rochester to Portage.....	Abandoned.
Sackett's Harbor and Ellsborough.....	Sackett's Harbor to Ellsborough.....	Leased to the New York, Lake Erie and Western.
Syracuse and Binghamton.....	Geddes to Binghamton.....	Name changed to Sackett's Harbor, Rome and New York. Reorganized as Syracuse and Southern in 1854.

LIST OF COMPANIES formed under the Laws of this State — (Continued).

NAME OF ROAD.	Where located.	Remarks.
Troy and Bennington.....	Hoosac Junction to Vermont State Line. Troy.....	Now leased to Troy and Boston. Operated by the New York Central and Hudson River Rail- road, Troy and Boston, Rensselaer and Saratoga R. R. Leased to the New York, Lake Erie and Western.
Union.....	State Line to Suffern.....	Abandoned. Extinct.
Albany and Saratoga.....	Albany to Saratoga.....	Formerly Buffalo and Conhocton Valley. That portion from Batavia to Corning was sold to the Buffalo, New York and Erie Railroad in 1862.
Attica and Allegheny Valley.....	Attica to north line of Pennsylvania.....	Consolidated into New York Central in 1853.
Buffalo, Corning and New York.....	Buffalo to Corning.....	Consolidated into Buffalo, Bradford and Pittsburgh in 1859. Extinct.
Buffalo and Lockport.....	Buffalo to Lockport.....	Formerly Canandaigua and Corning. Changed to Elmira, Canandaigua and Niagara Falls.
Buffalo and Pittsburgh.....	Buffalo to Pennsylvania State Line.....	
Buffalo, Pittsburgh and St. Louis.....	Buffalo to near Olean.....	
Canandaigua and Elmira.....	Canandaigua to Elmira.....	
Erie and New York City.....	Little Valley creek to west line State of New York.....	
Flushing.....	Flushing to point on East river, Kings Co. Rochester to Albany.....	In 1860, 38 miles was sold to the Atlantic and Great West- ern Railroad. Balance supposed to be abandoned. Reorganized as New York and Flushing Railroad in 1859. Extinct.
Genesee and Hudson.....	Fairhaven to Lake Ontario.....	Reorganized as Lake Ontario and Auburn in 1856.
Lake Ontario, Auburn and New York.....	Town of Ghent to Lebanon Springs.....	Consolidated into Harlem Extension in 1870. Extinct.
Lebanon Springs.....	New Rochelle to New York.....	Extinct.
New York and New Rochelle.....	New York to Troy.....	Extinct.
New York and Troy.....	Suspension Bridge to Buffalo and New York City Railroad.....	Extinct.
Niagara Falls, Buffalo and New York.....	Canandaigua and Niagara Falls Railroad to Suspension Bridge.....	Abandoned.
Niagara Falls and Lake Ontario.....	Niagara Falls to Lewiston.....	Abandoned.
Niagara River.....	Watertown and Rome Railroad to North- ern Railroad.....	
Potsdam and Watertown.....	Rochester to Charlotte.....	
Rochester and Lake Ontario.....	Rochester to town of Mendon.....	
Rochester and Southern.....	Sackett's Harbor to Saratoga.....	Name changed to Lake Ontario and Hudson River in 1867. In operation.
Sackett's Harbor and Saratoga.....	Nectady Railroad.....	
Staten Island.....	Tottenville to Vanderbilt Landing.....	
Sixth Avenue.....	New York.....	
Sodus Point and Southern.....	Sodus Point to Gorham.....	Reorganized as Ontario Southern in 1874.
Union (Syracuse).....	Syracuse.....	Sold to Syracuse, Binghamton and New York in 1867. Extinct.
Union and Syracuse Straight Line.....	Utica to Syracuse.....	

1853.		
Albany and Saratoga Springs.....	Albany to Saratoga Springs.....	Extinct.
Black River and Utica.....	Utica to Clayton.....	Reorganized as Utica and Black River in 1861.
Brooklyn City.....	Brooklyn.....	In operation.
Buffalo and Allegany Valley.....	Buffalo Attica and Allegany Valley R. R.	Consolidated with Buffalo and Washington in 1863.
Buffalo, Tonawanda and Niagara Falls.....	Tonawanda to Black Rock.....	Abandoned.
Canandaigua and Syracuse.....	Canandaigua to Syracuse.....	Extinct.
Clifton and South Clifton.....	Clifton to South Clifton.....	Extinct.
Clyde and Sodus Bay.....	Clyde to Sodus Bay.....	Abandoned.
Corning and Olean.....	Corning to Olean.....	Extinct.
Division Avenue.....	Brooklyn to Williamsburgh.....	Extinct.
Harlem River and High Bridge.....	Mouth of Harlem River to Yonkers.....	Extinct.
Hicksville and Cold Springs Branch.....	Hicksville to Syosset.....	Extinct.
Lansingburgh and Troy.....	Lansingburgh to Troy.....	Now owned by Long Island Railroad.
New York Central.....	Albany to Buffalo.....	Name changed to Troy & Lansingburgh in 1860. In operation. Formed by consolidating the Albany & Schenectady, Schenectady & Troy, Utica & Schenectady, Syracuse & Utica, Rochester & Syracuse, Buffalo & Lockport, Mohawk Valley, Syracuse & Utica Direct, Buffalo & Rochester, Rochester, Lockport & Niagara Falls in 1859. Now consolidated into the New York Central and Hudson River Railroad.
New York and Western.....	Division Line of New York and New Jersey to Canandaigua.....	Project abandoned.
Ogdensburg, Clayton and Rome.....	Ogdensburg to Rome.....	Project abandoned.
Oswego, Northern and Eastern.....	Oswego to Rome and Watertown R. R.....	Project abandoned.
Rochester and Pittsburgh.....	Rochester and Genesee Valley Railroad to Allegany Valley Railroad.....	Extinct.
Second Avenue.....	New York.....	In operation.
Syracuse, Utica Direct.....	Syracuse to Utica.....	Consolidated with the New York Central in 1853.
Third Avenue.....	New York.....	In operation.
Troy and Utica.....	Troy to Utica.....	Disassembled.
Utica and Binghamton.....	Utica to Binghamton.....	Disassembled.
Whitehall and Plattsburgh.....	Whitehall to Plattsburgh.....	Dissolved by Supreme Court.
1854.		
Blossburgh and Corning.....	Corning to Pennsylvania State Line.....	Formerly Corning and Blossburgh. Consolidated into Corning, Cowanesque and Antrim Railroad in 1873.
Manhattan Railway.....	New York.....	Extinct.
New York and Newburgh.....	New York to Newburgh.....	Extinct.
Oswego and Troy.....	Oswego to Troy.....	Extinct.
Utica and Waterville.....	Utica to Waterville.....	Extinct.
West Side.....	Albany to Sufferns.....	Extinct.
1855.		
Eighth Avenue.....	New York.....	In operation.
Hudson and Boston.....	Western Railroad to Hudson.....	Formerly Hudson and Berkshire; consolidated into Boston and Albany in 1871.
Oswego, Binghamton and New York.....	Oswego, Binghamton and New York.....	Abandoned.
Sackett's Harbor and Watertown.....	County of Jefferson.....	Extinct.
Saratoga and Whitehall.....	Saratoga Springs to Whitehall.....	Formerly Saratoga and Washington; now part of Rensselaer and Saratoga Railroad.

LIST OF COMPANIES formed under the Laws of this State — (Continued).

NAME OF ROAD.	Where Located.	Remarks.
Washington County Central.....	Pittstown to town of Greenwich.....	Extinct.
1856.		
Albany, Vermont and Canada.....	Albany to Eagle Bridge.....	Formerly Alb. North'n, which was dissolved and reorganized under this name; in 1859 reorganized as Alb. and Vt.
Genesee Valley.....	Avon to Mount Morris.....	Reorganized as Avon, Genesee and Mount Morris in 1860.
Lake Ontario and Auburn.....	Little Soda Bay to near Ithaca.....	Formerly Lake Ontario, Auburn and New York; extinct.
Syracuse and Southern.....	Geddes to Binghamton.....	Formerly Syracuse and Binghamton; name changed to Syracuse, Binghamton and New York.
Westchester County.....	Harlem River to New Rochelle.....	Extinct. Abandoned.
1857.		
Buffalo and International.....	Buffalo.....	Extinct.
Buffalo, New York and Erie.....	Buffalo to Corning.....	Formerly Buffalo, Corning & New York, and Buffalo & New York City; now leased to N. Y., Lake Erie and Western.
Elmira, Canandaigua and Niagara Falls.....	Canandaigua to Watkins.....	Formerly Canandaigua and Elmira; reorganized as Elmira, Jefferson and Canandaigua in 1859.
Lake Ontario and Hudson River.....	Sackett's Harbor to S. & S. R. R.....	Formerly Sackett's Harbor and Saratoga; name changed to Adirondack Estate and Railroad Company in 1860.
Mohawk and Moose River.....	New York Cent'l Railroad to Moose River.....	Extinct.
Ogdensburgh.....	Ogdensburgh to Lake Champlain.....	Formerly Northern Railroad, but afterward changed to Ogdensburgh and Lake Champlain.
Piermont West Shore.....	New Jersey State Line to Piermont.....	Supposed not to be built.
Syracuse, Binghamton and New York.....	Geddes to Binghamton.....	Formerly Syracuse and Southern; in operation.
Union Railroad Company.....		Extinct.
1858.		
Broadway (of Brooklyn).....	Brooklyn.....	In operation.
Buffalo and Lake Huron.....	Buffalo.....	Project abandoned.
Niagara Bridge and Canandaigua.....	Canandaigua to Niagara Bridge.....	Formerly Canandaigua and Niagara Falls; now leased to New York Central and Hudson River Railroad.
1859.		
Albany and Vermont.....	Albany to Eagle Bridge.....	Formerly Albany, Vermont and Canada Railroad; the road between Albany and Watford Junction is leased to the Rensselaer and Saratoga Railroad.
Atlantic and Great Western.....	Salamancea to Dayton, Ohio.....	Part of this road formed from part of the Erie and New York City Railroad; reorganized.
Brooklyn Central.....	Brooklyn.....	Consolidated into Blyn Central and Jamaica R. R. in 1860.
Buffalo, Bradford and Pittsburgh.....	Carrollton, N. Y., to Gilesville, Pa.....	Formerly Bradford and Pittsburgh, and the Buffalo and Bradford; in 1875 consolidated into New York, Pennsylvania and Erie Coal and Railway Co.
Elmira, Jefferson and Canandaigua.....	Watkins to Canandaigua.....	Formerly Elmira, Canandaigua and Niagara Falls; now leased to Northern Central of Pennsylvania.

Grand Street.....	Brooklyn.....	Extinct.
Grand Street and Maspeth.....	Brooklyn.....	Extinct.
Main and Ohio Street.....	Buffalo.....	Extinct.
New York and Flushing.....	Long Island City to Penny Bridge.....	Formerly Flushing Railroad; consolidated with South Side Railroad in 1872.
New York and Jamaica.....	New York to Jamaica.....	Extinct.
New York and Westchester County.....	New York to Croton Lake.....	Extinct.
New York and Yonkers.....	New York to Yonkers.....	Extinct.
Niagara Street.....	Buffalo.....	Sold to Buffalo Street Railroad in 1868; company dissolved.
Ninth Avenue.....	New York.....	In operation.
Union (of Westchester).....	Fordham to Harlem River Bridge.....	Extinct.
1860		
Adirondack Estate Railroad Company.....	Saratoga Springs or Ballston to the Sacandaga River.....	Formerly Lake Ontario and Hudson River Railroad; probably merged into Adirondack Railroad in 1868.
Avon, Genesee and Mount Morris.....	Avon to Mount Morris.....	Formerly Genesee Valley; now leased to N. Y. L. E. & W. R. R.
Brooklyn Central and Jamaica.....	Brooklyn to Jamaica.....	Formerly Brooklyn Central and the Brooklyn and Jamaica; in 1861 name changed to Brooklyn and Jamaica.
Brooklyn City and Newtown.....	Brooklyn to Newtown.....	In operation.
Buffalo Street.....	Buffalo.....	In operation.
Central City.....	Syracuse.....	In operation.
Central Park, North and East River.....	New York.....	In operation.
Cherry Valley and Sprakers Horse Power R. R. Co.....	Cherry Valley to the N. Y. C. R. R.....	Extinct.
Coney Island and Brooklyn.....	Brooklyn to Coney Island.....	In operation.
East New York and Jamaica.....	East New York to Jamaica.....	Extinct.
Elmira and Williamsport.....	Elmira to Williamsport, Pa.....	Formerly Williamsport and Elmira; now leased to Northern Central.
Grand Street and Newtown.....	Brooklyn.....	In operation.
Hudson and West Shore.....	Piermont to Nyack.....	Consolidated into West Shore and Hudson River in 1868.
New York.....	New York.....	Extinct.
Rome, Watertown and Ogdensburgh.....	Rome to St. Lawrence River.....	Formerly Watertown and Rome, and the Potsdam and Watertown; consolidated with Lake Ontario Shore in 1875 in operation.
Sackett's Harbor, Rome and New York.....	Sackett's Harbor to Pierpont.....	Formerly Sackett's Harbor and Ellensburg; abandoned.
Tenth Avenue and Grand Street.....	New York.....	Extinct.
Troy and Lansingburgh.....	Troy to Lansingburgh.....	Formerly Lansingburgh and Troy; in operation.
Warwick Valley.....	Warwick to Grey Court.....	Cons. with Lehigh & Hudson River under name of Lehigh Coas. with Lehigh & Hudson River R. R. in 1882. In operation.
Westchester County and New York City.....	New York to Croton Lake.....	Extinct.
1861.		
Albany.....	Albany.....	Extinct.
Brooklyn City and Ridgewood.....	Brooklyn City to Union Course.....	Formerly part of the Buffalo and New York City; consollidated with Erie.
Buffalo Branch of the Erie Railway.....	Attica to Hornellsville.....	Extinct.
East and North River.....	Port Morris to Spuyten Duyvil.....	Formerly New York and Erie; reorganized into N. Y. L. E. & W. R. R. in 1877.
Erie Railway.....	Jersey City to Dunkirk.....	Extinct.
International.....	Niagara Falls to Niagara City.....	Extinct.
New York and Lake Mahopac.....	New York to Lake Mahopac.....	Extinct.

LIST OF COMPANIES formed under the Laws of this State — (Continued).

NAME OF ROAD.	Where located.	Remarks.
Port Morris and Westchester.....	Port Morris to New Rochelle.....	Extinct.
South Side of Long Island.....	Islip to Brooklyn.....	Extinct.
Third Avenue and Fordham.....	West Farms, etc.....	Reorganized as Brooklyn and Montauk In 1880.
Utica and Black River.....	Utica to town of Philadelphia, N. Y.....	Extinct.
Van Brunt Street and Erie Basin.....	Brooklyn.....	Formerly Black River and Utica; in operation.
Albany and Boston.....	Albany to Boston.....	In operation.
Brooklyn Bath and Coney Island.....	Greenwood to Coney Island.....	Sold in 1888, and now owned by C. G. Gunther; in operation.
Brooklyn City and Rockaway.....	Brooklyn to Rockaway.....	Extinct.
North River and Wall Street Ferry.....	New York.....	Extinct.
Rochester City and Brighton.....	Rochester.....	In operation.
Troy and Cohoes.....	Troy to Cohoes.....	Now leased to Troy and Lansingburgh.
Utica City.....	Utica.....	In 1888 was authorized to change its name to Utica and Waterville.
Watervliet Turnpike and R. R. Co.....	Cohoes to Albany.....	In operation.
Albany Railroad.....	Albany.....	Extinct.
Albany Railway.....	Albany to Kenwood.....	In operation.
Adirondack.....	Saratoga to Rochester.....	Project abandoned.
Chenango Valley.....	Coules of Broome and Chenango.....	Formerly Adirondack Estate Railroad Co. In operation.
Cohoes and Watervliet.....	Cohoes to Watervliet.....	Extinct.
Flushing.....	Woodsides to Flushing.....	Extinct.
Fort Edward, Glen's Falls and Sandy Hill.....	Fort Edward to Glen's Falls.....	Extinct.
Forty-second Street and Grand Street Ferry.....	New York.....	In operation.
Harlem Bridge, Morrisania and Fordham.....	Fordham to Harlem Bridge.....	In operation.
Malden.....	Malden to Stone Quarries.....	Extinct.
Mohawk Valley and Placer.....	New York Central R. R. into Hamilton Co.....	Extinct.
New York City Crossover.....	New York.....	Extinct.
North Shore.....	Flushing to town of North Hempstead.....	Extinct.
Oswego and Rome.....	Oswego to Rome.....	Now leased to Rome, Watertown and Ogdensburg.
Rockaway and Brooklyn.....	Flatlands to Brooklyn.....	Extinct.
Rondout and Kingston.....	Rondout to Kingston.....	Extinct.
Schenectady and Catskill.....	Schenectady to Catskill.....	Extinct.
South Brooklyn and Bergen Street.....	Brooklyn.....	Extinct.
Syracuse and Geddes.....	Geddes to Syracuse.....	In operation.
Syracuse and Onondaga.....	Syracuse to Onondaga.....	In operation.
Watervliet and Cohoes.....	Watervliet to Cohoes.....	Extinct.
West Shore.....	Watervliet to West Farms.....	Extinct.
West Shore.....	Piermont to Nyack.....	Consolidated into Hudson River West Shore In 1868.

*Calendar years to this year; afterwards fiscal years.

1864.

Albany and Boston.....	Albany to Boston.....	Extinct.
Boston, Hartford and Erie.....	Formerly Boston, Hartford and Erie; Boston, Hartford and Erie Extension, and Boston, Hartford & Erie Ferry Extension. In 1873 changed to New York and New England. Consolidated into Boston, Hartford and Erie in 1884. Consolidated into Boston, Hartford and Erie in 1884. In operation.	Extinct.
Boston, Hartford and Erie Extension.....	Part of road leased to New York and Manhattan Beach Railroad, the remainder operated by the company.	Extinct.
Broadway and Seventh Avenue.....	Name changed to Cherry Valley, Sharon & Albany in 1899.	Extinct.
Brooklyn, East New York and Rockaway.....	Project abandoned.	Extinct.
Brooklyn and Rockaway Beach.....	In operation.	Extinct.
Canarsie, Brooklyn and Winfield.....	Extinct.	Extinct.
Cherry Valley and Mohawk River.....	Consolidated with Flushing and North Side.	Extinct.
Clinton Avenue.....	Consolidated with Nassau in 1898.	Extinct.
Cornling and Saucela Lake.....	Extinct.	Extinct.
Dry Dock, East Broadway and Battery.....	Extinct.	Extinct.
First Avenue and Jersey Ferries.....	Extinct.	Extinct.
Flatbush, Coney Island and Canarsie.....	Reorganized as North Second St. and Middle Vill. in 1899.	Extinct.
Flushing and Woodside.....	Not in operation. Reorganized as the Westchester R'way.	Extinct.
Fulton.....	Formerly Northern Railroad. In operation.	Extinct.
Greenpoint and Williamsburgh.....	Stock transferred to New York Central Railroad in 1897.	Extinct.
Harlem River and Tarrytown.....	Reorganized under same name in 1899.	Extinct.
Hunter's Point, Ravenwood and Astoria.....	Abandoned.	Extinct.
King's Bridge, High Bridge and Forty-second St.....	Extinct.	Extinct.
Metropolitan Railway.....	Extinct.	Extinct.
Newburgh and New York Railroad.....	Extinct.	Extinct.
New York, Housatonic and Northern.....	Extinct.	Extinct.
Oneida Valley.....	Extinct.	Extinct.
Ogdensburgh and Lake Champlain.....	Extinct.	Extinct.
Piermont and Nyack.....	Extinct.	Extinct.
Saratoga and Hudson River.....	Extinct.	Extinct.
Staten Island Shore.....	Extinct.	Extinct.
Sterling Mountain.....	Extinct.	Extinct.
Williamsburgh and Coney Island.....	Extinct.	Extinct.
Yonkers and New York.....	Extinct.	Extinct.
1865.		
Bleecker Street and Fulton Ferry.....	New leased to Twenty-third Street Railroad.	Extinct.
Brooklyn and Canarsie.....	Extinct.	Extinct.
Buffalo and Oil Creek Cross-cut.....	Consolidated into Buffalo, Corry and Pittsburgh in 1898.	Extinct.
Buffalo and Washington.....	Name changed to Buffalo, New York and Philad'a in 1871.	Extinct.
Cooperstown and Susquehanna Valley.....	In operation.	Extinct.
Dunkirk and Chautauqua Lake.....	Merged into Buffalo, Corry and Pittsburgh in 1898.	Extinct.
East New York and Jamaica Bay.....	Reorganized as the Jamaica, Woodhaven & B'klyn in 1873.	Extinct.
Fulton Ferry and Tenth Avenue.....	Extinct.	Extinct.
Greenpoint and Calvary.....	Extinct.	Extinct.
Hempstead and Jamaica.....	Extinct.	Extinct.
Hicksville and Huntington.....	Extinct.	Extinct.

LIST OF COMPANIES formed under the Laws of this State — (Continued).

NAME OF ROAD.	Where Located.	Remarks.
Jersey Ferries and First Avenue Junction Railway.....	New York.....	Extinct.
Kingston and Rondout.....	Chemung county.....	Extinct.
Lake and River Improvement, and Railroad Land Co. of the New York Wilderness.....	Kingston to Rondout.....	Reorganized in 1879. Operated by Kingston City R. R. Co.
Nassau.....	In Essex, Hamilton, Herkimer and Lewis counties.....	Extinct.
New York Northern Central.....	Kings and Queens counties.....	Consolidated into Brooklyn City, Hunter's Point and Prospect Park in 1868.
Newburgh and New York Railway.....	Fonda to Canada Lake.....	Extinct.
Rondout and Port Jervis Railway.....	Greenwood Junc. to Vall's Gate Junc.....	Merged into the Erie Railway in 1871.
Schoharie Valley.....	Rondout to Port Jervis.....	Extinct.
Schenectady and Utica Railway.....	Schoharie to Junction A. & S. R. R.....	Reorganized under same name in 1874.
Sheephead Bay and Sea Shore.....	Schenectady to Utica.....	Project abandoned.
Utica and Syracuse Railway.....	Sheephead Bay to Coney Island Turnpike Railroad.....	Extinct.
Williamstown and Redfield.....	Utica to Syracuse.....	Extinct.
	Williamstown to Redfield Village.....	Extinct.
Albany and New York.....	Albany to New York.....	Extinct.
Albany and Lackawanna.....	Chenango and Broome counties.....	Extinct.
Bay Shore.....	Flushing to Whitestone.....	Project abandoned.
Brooklyn and Turin.....	Boonville to Turin.....	Disolved.
Brooklyn, Middle Village and Jamaica.....	Brooklyn to Jamaica.....	Extinct.
Brooklyn, Flatbush and Coney Island.....	Flatbush to Coney Island.....	Name changed to B'lyn, Coney Island and Rockaway in 1873.
Brooklyn and Jamaica.....	Brooklyn to Jamaica.....	Formerly Brooklyn Central and Jamaica. In 1873 sold to Atlantic Avenue Railroad
Broadway and Yonkers Patent.....	New York.....	Extinct.
Central Park and Kingsbridge.....	New York.....	Extinct.
Columbia Street and Erie Basin.....	Brooklyn.....	Extinct.
Copenhagen and Turin.....	Copenhagen to Turin.....	Extinct.
Dunkirk and Fredonia.....	Dunkirk to Fredonia.....	Extinct.
Dutchess and Columbia.....	Town of Copake, county of Columbia, near Dunneyspt, county of Dutchess.....	In operation.
East Side and New Rochelle Patent Railway.....	New York to New Rochelle.....	In 1873 consolidated into New York, Boston and Northern.
Flushing and College Point.....	Flushing to Shattoport and College Pt.....	Was foreclosed, and in 1877 reorganized as Newburgh, Dutchess and Connecticut.
Genesee and Water Street.....	Syracuse.....	Extinct.
Greenpoint, Prospect Park and Greenwood.....	Greenpoint to Greenwood.....	Project abandoned.
Hughes and Tonawanda.....	County of Westchester to New York.....	In operation.
Jamaica and Middle Village.....	Ithaca to near Waverly.....	Not in operation.
	Jamaica to Middle Village.....	Extinct.
		Name changed to Ithaca and Athens in 1870.

Middletown, Unionville and Water Gap. Middle Village. Montgomery and Erie. New York Northern. New York and Oswego Midland. Newburgh and Middletown. Poughkeepsie and Eastern. Poughkeepsie City. Richfield Springs and Otsego Lake. Rondout and Oswego. Sackett Street. Statenland. Staten Island Horse. Southern Central. Syracuse Connecting Railway. Tug and Erie. Tug and Albion. Ulster, Chenango, and Susquehanna Valley. Walkill Valley Railway. West Side and Yonkers Patent. Whitehall and Plattsburgh. Williamsburgh and Flatbush. Williamsburgh and Newtown.	Middletown to New Jersey State Line. Kings county. Montgomery to Onsen. Schuylkill to Oxfordburgh. Oswego to Jersey State Line. Newburgh to Middletown. Poughkeepsie to Harlem Railroad. Poughkeepsie. Richfield Springs to Cooperstown. Brooklyn to Onondaga and Colliersville. Statenland to Junction. Sackett Street. Rich Haven to Pennsylvania State Line. Syracuse to Geddes. Penn State Line to town of Erwin. Troy to Albion. Troy to Binghamton. New York to Yonkers. Newburgh to Plattsburgh. Brooklyn. Kings County.	Now leased to New York, Susquehanna and western. Extinct. Leased to New York, Lake Erie and Western. Not in operation. [Western in 1880, in operation. Reorganized as New York, Ontario and Extinct. New Poughkeepsie, Hartford and Boston. Changed to City of Poughkeepsie in 1878. Extinct. Native changed to New York, Kingston and Syracuse in 1872. Extinct. In operation. Reorganized as Staten Island Shore in 1899. In operation. Extinct. Extinct. In operation. Now leased to Delaware, Lackawanna and Western R. R. Reorganized under the name of the Wall, Val R. R. in 77. Name changed to West Side Elevated Railway in 1868. Consolidated into New York and Canada. Reorganized as the New Williamsburgh and Flatbush in 1873. Consolidated into Maspeth Railroad and Bridge Co. in '68.	Reorganized under same name in 1877. Extinct. Extinct. Extinct. Extinct. Extinct. Extinct. Formerly Buffalo and State Line, and the Buffalo, Erie and North east Railroad. In 1899 consolidated into Lake Shore and Michigan Southern. Reorganized as Cayuga in 1875. Extinct. Consolidated with the Coneywango Valley of Pa., in 1870, into the Dunkirk, Warren and Pittsburgh. Extinct. In operation. Extinct. Leased to Rensselaer and Saratoga Railroad. Leased to New York, New Haven and Hartford Railroad. Extinct. Consolidated into West Shore Hudson River in 1868. Extinct. Extinct.
Astoria and Hunter's Point. Batavia, Attica and Salamanca. Brooklyn and Rockaway. Brooklyn, Fort Hamilton and Coney Island. Brooklyn, Prospect Park and Flatbush. Bushwick. Buffalo City. Buffalo and Erie. Cayuga Lake. Cohoes and Waterford. Dunkirk, Warren and Pittsburg. East Brooklyn, Winfield and Newtown. Fonda, Johnstown and Gloversville. Fulton Ferry and Prospect Park. Glen's Falls. Harlem River and Port Chester. Hudson Avenue. Hudson River West Shore. Hunter's Point and Rockaway Beach. Manhattan Railway.	Astoria to Hunter's Point. Batavia to Salamanca. Brooklyn to Rockaway. Brooklyn to Coney Island. Kings and Queens counties. Brooklyn. Buffalo. Buffalo, New York, to Erie, Pa. Cayuga to Ithaca. Cohoes to Waterford. Dunkirk to Coneywango creek. Brooklyn to Newtown. Fonda to Gloversville. Brooklyn. Port Edward to Glen's Falls. Harlem river to New York, New Haven and Hartford Railroad. Brooklyn. Plermonth to Newburgh. East New York to Hunter's Point. South Ferry to near Croton aqueduct. High Bridge.	Reorganized under same name in 1877. Extinct. Extinct. Extinct. Extinct. Extinct. Extinct. Formerly Buffalo and State Line, and the Buffalo, Erie and North east Railroad. In 1899 consolidated into Lake Shore and Michigan Southern. Reorganized as Cayuga in 1875. Extinct. Consolidated with the Coneywango Valley of Pa., in 1870, into the Dunkirk, Warren and Pittsburgh. Extinct. In operation. Extinct. Leased to Rensselaer and Saratoga Railroad. Leased to New York, New Haven and Hartford Railroad. Extinct. Consolidated into West Shore Hudson River in 1868. Extinct. Extinct.	

LIST OF COMPANIES formed under the Laws of this State—(Continued).

NAME OF ROAD.	Where located.	Remarks.
Metropolitan Transit.....	New York.....	Extinct.
Middleburgh and Schoharie.....	Middleburgh, Schoharie.....	In operation.
New York and Albany.....	Albany to Jersey City.....	Time extended. Not in operation.
Northern Central (New York).....	St. Johnsville to Fish or Canada Lake.....	Extinct.
North Side of Long Island.....	Manhasset to Huntington.....	Extinct.
Prospect Park and Coney Island.....	Fulton Ferry to Coney Island.....	In operation.
Schenectady and Mechanville.....	Albany to Mechanville.....	Built and operated by the Delaware and Hudson Canal Co.
Syracuse, Fayetteville and Manlius.....	Syracuse to Manlius.....	Project abandoned.
Syracuse Mineral Springs.....	Syracuse.....	Extinct.
Troy City.....	Troy.....	Abandoned.
Union Pneumatic Railway.....	New York.....	Extinct.
Union Village and Johnsonville.....	Union Village to Johnsonville.....	Name changed to Greenwich and Johnsonville in 1874.
Utica and Waterville.....	Utica to Waterville.....	Formerly Utica city. Name changed to Utica, Clinton and Binghamton in 1868.
Waverly and State Line.....	Waverly to Pennsylvania State Line.....	Now leased to Pennsylvania and New York Canal and Railroad Company. A Pennsylvania corporation.
Binghamton and Port Dickson.....	Binghamton.....	Leased to N. L. Osborne.
Black River and St. Lawrence.....	Carthage, Jefferson county, to town of Russell, St. Lawrence county.....	Time extended. Not in operation.
Black River and Woodhull.....	Black river to Bellingtown.....	Extinct.
Boonville and Constableville.....	Boonville to Constableville.....	Abandoned.
Boonville and Ontario.....	Boonville to mouth of Salmon River.....	Dissolved.
Brooklyn City, Hunter's Point and Prospect Park.....	Hunter's Point to South Ferry, Brooklyn.....	Name changed to Brooklyn Crostown in 1872. [operation.
Buffalo, Corry and Pittsburgh.....	Breton to Corry, Pa.....	Now forms part of Buffalo, New York and Philadelphia. In
Buffalo and Williamsville.....	Buffalo to Eleven mile creek.....	Extinct.
Cattaraugus.....	Salamanca to Machias.....	Extinct.
Cazenovia and Canastota.....	Madison county.....	Reorganized as Cazenovia and Canastota Railway in 1873.
Cornwall, Suspension Bridge.....	Fishkill to Newburgh Branch Erie R'y.....	Project abandoned.
Eastern Branch of the Dutchess and Columbia.....	Dutchess county.....	Project abandoned.
East Side Railway.....	New York.....	Project abandoned.
Erie and Genesee Valley.....	Mount Morris to Burna.....	Now leased to New York, Lake Erie and Western R. R.
Erie and New England.....	Turner's Station to Derby, Conn.....	Extinct.
Far Rockaway Branch.....	Queens county.....	Consolidated with South Side Railroad in 1873.
Fifth Ward.....	Syracuse.....	In operation.
Fishkill.....	Fishkill.....	Extinct.
Fushing and North Side.....	Hunter's Point to Roslyn.....	Extinct.
Forestport.....	Forestport to Wilderness.....	Consolidated into Long Island City & Fushing.
Fulton Ferry and Onondaga Bay.....	Brooklyn.....	Consolidated into Fushing, North Shore & Central in 1874.
Gloversville, Mayfield and Northville.....	Gloversville to Northville.....	Extinct.
Goshen and Decaturtown.....	Goshen to New Jersey State Line.....	Extinct.
Madison Avenue and West Park.....	Kings county.....	Now leased to New York, Lake Erie and Western Railroad.
Lake Champlain and Moriah.....	Mineville to Fort Henry.....	Extinct.
		In operation.

Lake Ontario shore	Queens to Lewiston	Sold and reorganized as Lake Ontario In 1874.
Liverpool and Syracuse	Liverpool to Syracuse	Project abandoned.
Maspeh Railroad and Bridge Company	Brooklyn	Formerly Williamsburgh and Newtown Railroad, and the Maspeh Avenue and Fall Bridge Co. Extinct.
Middletown and Crawford	Crawford Junction to Pine Bush	Leased to New York, Lake Erie and Western.
Monticello and Port Jervis	Monticello to Port Jervis	Reorganized as Port Jervis and Monticello In 1875.
Montreal and Plattsburgh	Plattsburgh to Canada Line	Formerly Plattsburgh and Montreal; consolidated into New York and Canada In 1876.
Newburgh and Walkill Valley	Orange county	Extinct.
Newburgh River	Newburgh	Extinct.
New York City Central Underground	New York City	Not in operation. Reorganized as New York Underground In 1880.
Seneca Lake Branch	Seneca Lake	Extinct.
Southfield Branch	Southfield to Southfield Furnace	In operation.
South Side Junction	Queens county	Extinct.
Syracuse and Chenango Valley	Syracuse to Norwich	Reorganized as Syracuse and Chenango In 1873.
Syracuse Northern	Syracuse to Rome	Reorganized as the Srra. & North. In 1875. (D. & H. C. Co.
Utica, Clinton and Binghamton	Utica to South's Valley	Formerly U. & W. That part operated by steam lead to Formerly West Shore Hudson River, and Hudson River West Shore. Extinct.
West Shore Hudson River	New York State Line to Athens	Extinct.
Westport and Kingston	Essex county	Formerly West Side and Yonkers. Extinct.
West Side Elevated Patent Railway	New York	
Avenue C	New York	
Auburn and Port Jervis	Cayuga county	Reorganized as the Houston, West St. and Pavonia Ferry. In 1874.
Brooklyn, Flatbush and Coney Island	Coney Island	Extinct.
Brooklyn, Prospect Park and Jamaica Bay	Coney Island	Name changed to Brooklyn, Coney Island & Rockaway In '78.
Brooklyn Steam Transit	Kings county	Extinct.
Brooklyn and Winfield Railway	Kings and Queens counties	Extinct.
Buffalo Creek	Buffalo	Name changed to Brooklyn, Winfield and Newtown In 1870.
Carthage, Watertown and Sackett's Harbor	Carthage to Sackett's Harbor	In operation.
Central Elevated Railway	New York	Leased to Utica and Black River.
Cherry Valley, Sharon and Albany	Cherry Valley to A. and S. Railroad	Extinct.
City Line and Canarsie	Kings county	Formerly Cherry Valley and Mohawk River; now leased by Delaware and Hudson Canal Co.
Clove Branch	Clove Branch Junction to Sylvan Lake	Abandoned.
Cornwall Branch	Newburgh to Cornwall Landing	In operation.
Gallupville	Schoharie Valley Railroad to Gallupville	Extinct.
Grand Street Ferry and Middle Village	Kings and Queens counties	Extinct.
Greenwich and Johnsonville	Greenwich to Johnsonville	Formerly Metropolitan Railroad; reorganized as the North Second Street and Middle Village In 1870.
Hamilton Avenue and Prospect Park	Brooklyn	Formerly Union Village and Johnsonville. In operation.
Hudson and Mohawk	Ithaca and Cortland	Extinct.
Ithaca and Cortland	Ithaca R. R. near Schenectady to Albany	Extinct.
Lake Shore and Michigan Southern	Buffalo to Chicago	Name changed to Utica, Ithaca and Elmira In 1872. (Union Buffalo & Erie R. R. consolidated with this road. In operation.)
Keesville and Montreal	Peru to Keesville	Extinct.
New Brighton and Onondaga Valley	New Brighton to Parterson, Conn.	In operation.
Newburgh and Kinzard	Orange and Ulster counties	Abandoned.

LIST OF COMPANIES formed under the Laws of this State — (Continued).

NAME OF ROAD.	Where located.	Remarks.
New York and Boston.....	Harlem River to Lake Mahopac.....	In 1873 consolidated into New York, Boston & Northern; but in 1876 reorganized as New York, Westchester & Putnam.
New York and Highland Suspension Bridge Co.....	Harlem River to Highland Sus. Bridge.....	Extinct.
Northern Air Line.....	Plattsburgh to Westport.....	Extinct.
New York and Northern.....	Upper Plerimont to Nyack.....	Now leased to Northern Railway of New Jersey.
Rensselaerville and Berne.....	Gallupville to south line of Albany Co.....	Abandoned.
Rome and Clinton.....	Rome to Clinton.....	Now leased to Delaware and Hudson Canal Co., but operated by Delaware, Lackawanna and Western.
Schenectady and Susquehanna.....	Schenectady to Albany and Sus. R. R.....	Reorganized as Schenectady and Duanesburgh in 1873.
Schuylerville and Upper Hudson.....	Mechanicville to Fort Edward.....	Consolidated with Upper Hudson Railroad into Schuylerville and Upper Hudson in 1872.
Silver Lake.....	Perry to East Gainesville.....	In operation.
Spuytgen Duyvil and Port Morris.....	Spuytgen Duyvil to Port Morris.....	Operated by the New York Central and Hudson River R. R.
Staten Island Shore.....	Staten Island.....	Formerly Staten Island Horse.
Suspension Bridge and Erie Junction.....	Buffalo.....	In operation.
Syracuse and Northwestern.....	Syracuse to Mexico.....	Leased to New York, Lake Erie and Western Railroad.
Twenty-third Street.....	New York.....	Consolidated with the Syracuse, Phoenix and Oswego in '76.
Union (Buffalo).....	Buffalo.....	In operation.
Utica and Mohawk (Street).....	Utica to Mohawk.....	Consolidated with Buffalo Creek in 1860.
Valley.....	State Line to Hinghamton.....	In operation.
Attica and Arcade.....	Attica to Arcade.....	Leased to Delaware, Lackawanna and Western Railroad.
Black River and Morristown.....	Philadelphia, N. Y., to Morristown.....	Corporate existence renewed by chap. 877, Laws of 1860.
Boston, Saratoga and Western.....	Saratoga to Sackett's Harbor.....	Consolidated with Utica and Black River Railroad 1882.
Brooklyn, Winfield and Newtown.....	Kings and Queens counties.....	Extinct.
Buffalo and Williamsville.....	Buffalo.....	Formerly Brooklyn and Winfield. Not in operation.
Buffalo East Side Street.....	Buffalo.....	Extinct.
Central of Staten Island.....	West Brighton to Centreville.....	In operation.
Central Valley.....	Chenango Forks to Smithville.....	Extinct.
Dunkirk, Warren and Pittsburgh.....	Dunkirk, N. Y., to Warren, Pa.....	Formerly Dunkirk, Warren and Pittsburgh, and the Chenango Valley; consolidated in Dunkirk, Allegany and Pittsburgh Railroad in 1863.
Geneva and Ithaca.....	Geneva to Ithaca.....	Consolidated into Geneva, Ithaca and Athens in 1874.
Grand Street, Prospect Park and Flatbush.....	Brooklyn to Kings county.....	In operation.
Greene.....	Chenango Forks to Greene.....	Leased to Delaware, Lackawanna and Western.
Hamilton Ferry and Canarsie.....	Hamilton Ferry to Jamaica Bay.....	Extinct.
Harlem Extension.....	Chatham Four Corners to Rudland, Vt.....	Formerly Lebanon Springs, and the Bennington and Rutland Company of Montreal; also Pine Plains and Albany; in 1872 consolidated with New York, Bxaton and Montreal, and in 1877 that portion in this State was foreclosed and sold; no company reorganized yet.

Hempstead and Rockaway.....	Hempstead to Valley Stream.....	In 1871 consolidated into New York and Hempstead, and foreclosed and sold in 1873; reorganized as the Southern Hempstead Branch.
Hudson Valley.....	From termination of Schuylerville and Upper Hudson Railroad to the Henselaeer and Saratoga Railroad.....	Extinct.
Hudson, Suspension Bridge and New England.....	From N. Y. L. & W. R. R. to Conn. St. L. Fresh Ponds to East River.....	Extinct.
Hunter's Point and South Side.....	Ithaca to Athens.....	In 1872 consolidated with South Side Railroad. Formerly Ithaca and Tonawanda; in 1874 consolidated into Geneva, Ithaca and Athens. [company in 1874]
Ithaca and Athens.....	Ithaca to Athens.....	Leased to N. Y. C. and H. & H. R. R.; consolidated into said company in 1874.
Junction.....	N. Y. C. & H. R. R. to Niagara River.....	Extinct.
Middletown Horse.....	Middletown.....	In operation.
Molawak and Elm (Horse).....	Monawak to Elm.....	Extinct.
Newburgh and Middletown.....	Newburgh to Middletown.....	In operation.
New York Central and Hudson River.....	Buffalo to New York.....	Consolidation of New York Central Railroad and the Hudson River Railroad; in operation.
New York and Hempstead Plains.....	Bay Ridge to Hempstead.....	Consolidated into New York and Hempstead in 1871.
New York, Utica and Ogdensburg.....	Coopers to Trenton Falls.....	Extinct.
New York, West Shore and Chicago.....	Franklin to Buffalo.....	Consolidated into New York and Hempstead in 1880. Not in operation. Reorganized as New York, West Shore and Buffalo in 1881.
North Shore of Long Island.....	Manhasset to Oyster Bay.....	Consolidated into Flushing, N'th Shore and Central in 1874. Abandoned.
Northern New York.....	Ogdensburg to Carthage.....	Extinct.
Nostrand Avenue and Park.....	Oswego.....	Extinct.
Pawego City (Street).....	Oswego.....	Consolidated into Prospect Park and Coney Island in 1875.
Park Avenue.....	Brooklyn.....	Extinct.
Pennsylvania and Soda Bay.....	Rhinecliff to State Line.....	Extinct.
Pennsylvania and Connecticut.....	Rhinecliff to State Line.....	In operation. Purchased by the Hartford & Conn. Western.
Rhinebeck and Connecticut.....	Mount Morris to Amity.....	New Rocheseter, Nunda and Pittsburgh.
Rochester, Nunda and Pennsylvania.....	Castle Station to Canastota.....	Name changed to Silver Lake in 1871.
Rochester and Pine Creek.....	Rochester to Canastota.....	In operation. Reorganized as Rochester and Pittsburgh.
Rochester and State Line.....	Upper Pleasant to Haverstraw.....	Consolidated with Jersey City and Albany in 1873.
Rochester and State Line.....	Saratoga to Schuylerville.....	Extinct.
Saratoga, Schuylerville and Hoosac Tunnel.....	Schenectady to Schuylerville.....	Name changed to Schenectady and Duaneburgh in 1873; reorganized.
Schenectady and Susquehanna.....	Schenectady to Duaneburgh.....	Extinct.
Schuylerville and Fort Edward.....	Schuylerville to Fort Edward.....	Extinct.
Schuylerville and Moreau.....	Saratoga County.....	Extinct.
Smithtown and Port Jefferson.....	North to Port Jefferson.....	Operated by Long Island Railroad.
Soda Bay, Cornhusk and New York.....	Cornhusk to Great Soda Bay.....	Name changed to Soda Bay and Corning in 1872.
South Brooklyn and Park.....	Brooklyn.....	Reorganized in 1877 as South Brooklyn Central.
Utica, Chemung and Cortland.....	Cortland to Otsello.....	Not in operation.
Utica, Georgetown and Elmira.....	Cortland to Otsello.....	Extinct.
Utica, Horseheads and Elmira.....	Utica to Otsello.....	Consolidated into Utica, Ithaca and Elmira in 1872.
Utica, Horseheads and Elmira.....	Horseheads to Ithaca.....	Extinct.
Albany, Sand Lake and Stephentown.....	Albany to Stephentown.....	Extinct.
Atlantic and Ontario.....	Hoosac to Salisbury.....	Extinct.
Auburn and Deposit Air Line.....	Deposit to Homer.....	Discontinued.
Auburn and Owasco Lake.....	Auburn to foot of Owasco Lake.....	Reorganized under same name in 1880; in operation.
Bacon.....	Bacon.....	In operation.
Bay Ridge and Sea Side.....	Bay Ridge to Hempstead.....	Extinct.
Belmont and Buffalo.....	Belmont to Gainesville.....	Extinct.

LIST OF COMPANIES formed under the Laws of this State—(Continued).

NAME OF ROAD.	Where Located.	Remarks.
Boston and Albany.....	Boston to Albany.....	Formerly Albany and West Stockbridge, and the Hudson and Boston, and Boston and Albany Company of Massachusetts; in operation.
Boston, Rome and Oswego.....	Hoosac to Vienna.....	Extinct.
Brooklyn and Sea Shore.....	Brooklyn to Jamaica Bay.....	Extinct.
Brooklyn Steam Transit.....	Brooklyn.....	Extinct.
Buffalo International Bridge.....	Buffalo.....	Extinct.
Buffalo, New York and Philadelphia.....	Buffalo to Emporium, Pa.....	Formerly Buffalo and Washington; in operation.
Buffalo and Springville.....	Hamburg to Springville.....	Abandoned.
Catskill and Schoharie Valley.....	Catskill to Central Bridge.....	Extinct.
Cayuga Midland.....	Auburn to Ithaca.....	Dissolved in 1873.
Central of Long Island.....	Flushing to Bethpage.....	Consolidated into Flushing, N'th Shore and Central in 1874.
Clayton and Theresa.....	Clayton to Theresa Junction.....	Leased to Erie and Black River Railroad.
Delhi and Middletown.....	Delhi to Middletown.....	Not in operation.
East Genesee Street and Seward Avenue.....	Auburn.....	In operation. Reorganized in 1881 under same name.
Elmira and Horseheads.....	Horseheads to Elmira.....	In operation.
Flushing Village.....	F. N. S. & C. to N. S. R. R.....	Abandoned.
Fort Ann and Mount Hope.....	Fort Ann to Mount Hope.....	Extinct.
Frankfort and Ilion.....	Frankfort to Ilion.....	In operation.
Geneva and Southwestern.....	Geneva to Blood's Corners.....	Consolidated into Geneva and Hornellsville in 1876.
Herkimer and Mohawk Street.....	Herkimer to Mohawk.....	In operation.
Horseheads and Elmira Avenue.....	Horseheads to Elmira.....	Extinct.
Hudson and Kinderhook.....	Hudson to Kinderhook.....	Abandoned.
Jamestown.....	Jamestown to D. K. & P. R.....	Leased to New York, Lake Erie and Western.
Lockport and Buffalo.....	Lockport to N. Tonawanda.....	In operation. Merged into Long Island City and Newtown.
Long Island City and Calvary Cemetery.....	Long Island City to Winfield.....	Owied by New Jersey and New York Railroad Co.
Nanuet and New City.....	Nanuet to New City.....	Leased to Long Island.
Newtown and Flushing.....	Winfield to Flushing.....	Extinct.
New York and Croton River.....	Long Island to Tarrytown.....	Formerly Hempstead and Rockaway Railroad, and New York and Hempstead Plains; reorganized as South Hempstead Branch; in 1874 the Hempstead and Rockaway Railroad Company was foreclosed, and reorganized as the Southern Hempstead Branch.
New York and Hempstead.....	Hempstead to Valley Stream.....	Leased to New York Central and Hudson River Railroad.
New York and Mahopac.....	Golden Bridge to Lake Mahopac.....	Extinct.
New York and North Salem.....	N. Y. & H. R. to Connecticut Line.....	Extinct.
New York Railway.....	New York.....	Extinct.
New York and Rockaway.....	Jamaica to Rockaway.....	Leased to the Long Island Railroad.
New York and White Plains.....	Morrisania to White Plains.....	Extinct.
Niagara Falls.....	Suspension Bridge and Erie Junction to Niagara Falls.....	Extinct.
North Second Street and Middle Village.....	Kings and Queens counties.....	Formerly Metropolitan Railroad, in operation.

North Side (Staten Island).....	Ward's Point to N. E. end.....	Abandoned.
Ogdensburg and Morristown.....	Ogdensburg to Morristown.....	Extinct.
One Hundred and Twenty-fifth Street.....	New York.....	Leased to Third Avenue Railroad Company.
Putnam and Dutchess.....	N. Y. & B. R. R. to Hopewell.....	Consolidated into New York, Boston and Northern in 1876.
Queens County.....	Kings and Queens counties.....	Extinct.
Rockaway Railway.....	Far Rockaway to Rockaway Beach.....	Consolidated with South Side Railway Company in 1873.
Rockaway Beach Railroad.....	N. Y. & R. R. to Rockaway Beach.....	Extinct.
Rye and Westchester.....	Rye to Long Island Sound.....	Extinct.
Sacandaga Valley.....	Cortuth to Conlenville.....	Extinct.
Seneca Falls and Waterloo.....	Seneca Falls to Waterloo.....	Extinct.
Southern Westchester.....	N. Y. H. & V. to Harlem River.....	Consolidated with New York, Housatonic and Northern in 1872.
Staten Island Central.....	Port Richmond to Tottenville.....	Extinct.
Syracuse Branch New York, Utica and Ogdensburg.....	Oneonta to Earlville.....	Name changed to Oneonta and Earlville Railroad Co. in 1872.
Troy and Saratoga.....	Schaghticoke to Saratoga Springs.....	Extinct.
Troy and Susquehanna.....	Troy to Knowersville.....	Extinct.
Utica and Deerfield Street.....	Utica to Deerfield Corners.....	Extinct.
West Troy and Green Island.....	West Troy to Green Island.....	Owned by Delaware and Hudson Canal Co.
1872.		
Arcade and Genesee River.....	Arcadia to Canadesa.....	Extinct.
Atlantic Avenue.....	Brooklyn.....	Formerly Brooklyn and Jamaica; portion leased to Long Island; in operation.
Atlantic and Great Western of New York.....		Formerly Atlantic and Great Western; reorganized; changed to Atlantic and Great Western Railroad of New York and Pa.
Atlantic and Gt. Western R. R. Co. of N. Y. and Pa.....	Salamanca, N. Y., to Dayton, Ohio.....	Changed to Atlantic and Great Western.
Atlantic and Great Western.....		Formerly Atlantic and Great Western of N. Y. and Pa.; in operation; reorganized as N. Y., Penn. and Ohio in 1880.
Auburn and Homer Midland.....	Auburn to Cortlandville.....	Extinct.
Auburn and Willow Brook.....	Auburn to Willow Brook.....	Extinct.
Bath and Hammondsport.....	Bath to Hammondsport.....	In operation.
Binghamton, Dushore and Williamsport.....	Binghamton to Pennsylvania State Line.....	Extinct.
Boston and Henderson Harbor.....	Henderson Harbor to Salisbury.....	Extinct.
Breadlau and Fire Island.....	Breadlau to Islip.....	Extinct.
Brooklyn Crosstown.....	Hunter's Point to Erie Basin.....	Formerly Brooklyn City, Hunter's Point and Prospect Park; in operation.
Buffalo and Jamestown.....	Buffalo to Pennsylvania State Line.....	Reorganized as Buffalo and Southwestern in 1878.
Canandagula and Bath.....	Canandagula to Bath.....	Extinct.
Canandagula, Palmyra and Ontario.....	Canandagula to Lake Ontario.....	Abandoned. See State Engineer's report, 1882.
Cayuga Northern.....	Cayuga to Port Byron.....	Extinct.
Cazenovia and De Ruyter.....	Cazenovia to De Ruyter.....	Consolidated into Cazenovia, Canastota and De Ruyter in 1873.
Coboes and Waterford.....	Coboes to Waterford.....	Extinct.
Cypress Hill Railway.....	Brooklyn to Calvary Hill Cemetery.....	Extinct.
Elmira State Line.....	Elmira to Lawrenceville.....	Leased to Tioga Railroad Company of Pa.
Erie International.....	Buffalo to International Bridge.....	Leased to New York, Lake Erie and Western.
Gilbert Elevated.....	New York.....	Now Metropolitan Elevated Railroad; in operation.
Gloversville and Northville.....	Gloversville to Northville.....	Leased to Fonda, J. & G. R. R. Co.

LIST OF COMPANIES formed under the Laws of this State — (Continued).

NAME OF ROAD.	Where Located.	Remarks.
Greenwood and Coney Island	Brooklyn to Coney Island	Consolidated into the Prospect Park and Coney Island in 1876.
Hudson and St. Lawrence	Ballston to Ogdensburgh	Extinct.
Hunter's Point and Flushing	Queens county	Extinct.
Jamaica, Woodhaven and Brooklyn	Jamaica to East New York	Imaleca and Brooklyn Road Co. In 1880; in oper'n. Formerly E. N. Y. and Jamaica Bay; consolidated into Jamaica.
Langensburgh and Troy	Langensburgh to Troy	Extinct.
Metropolitan Transit	New York	Not in operation.
New York and Boston Extension	High Bridge to Port Morris	Extinct.
New York and Canada	Whitehall to Canada Line	Formerly Whitehall and Plattsburgh, and the Montreal and Plattsburgh; leased to Delaware and Hudson Canal Co.
New York City Rapid Transit	New York	Not in operation.
New York and Croton River Extension	Port Morris to N. Y. C. & H. R. R.	Extinct.
New York, Kingston and Syracuse	Rondout to Syracuse	Formerly Rondout and Oswego; in 1875 reorganized as Utster and Delaware.
New York, Westchester and Boston	Port Morris to Port Chester	Not in operation. Reorganized as East River and Connecticut.
New York Western Midland	Hancock to Lake Ontario Shore Railroad	Extinct.
New York Elevated	New York	Leased to Manhattan Railroad Company. In operation.
Niagara River and New York Air Line	Buffalo to Rochester	Extinct.
North Park	Binghamton to Port Dickson	Extinct.
Northern Extension of Roch., Nunda and Pitts. R.R.	Mount Morris to Rochester	Consolidated into Rochester, Nunda and Pennsylvania in 1877.
Oneonta and Earlville	Oneonta to Earlville	Extinct.
Oswego City and Town	Oswego	Extinct.
Pelham and Port Chester	Pelham to Port Chester	Extinct.
Pine Plains and Albany	Pine Plains to Chatham	Consolidated with Harlem Extension.
Queens Railway	Queens county	Extinct.
Rochester, Hornellsville and Pine Creek	Hornellsville to State Line	Consolidated with Geneva, Hornellsville and Pine Creek Railroad.
Rochester, Nunda and Pennsylvania Extension	Belvidere to Pennsylvania State Line	Changed to Rochester, Nunda and Pennsylvania Railroad.
Rochester, Nunda and Pennsylvania	Rochester to Pennsylvania State Line	Formerly Rochester, Nunda and Pennsylvania, and the Rochester, Nunda and Pennsylvania Extension; also, Northern Railroad and Navigation Company; in 1877 reorganized as Rochester, Nunda and Pittsburgh.
Rockland Central Extension	Orangeburgh to Tappan town	Extinct.
Schenectady and Ogdensburgh	Schenectady to Ogdensburgh	Extinct.
Schoharie Street	Village of Schoharie	Extinct.
Schuylerville and Upper Hudson	Mechanicville to Fort Edward	Formerly Hudson; extinct.
Sodus Bay and Corning	Savona to Sodus Bay	Formerly Schuylerville and Upper Hudson Railroad, and Formerly Sodus Bay, Corning and New York; extinct; reorganized in 1875.
Syracuse, Phoenix and Oswego	Liverpool to N. Y. & O. M. R. R.	(incl. and Western Railway.
Traut	Buffalo	Not in operation. Consolidated with Boston, Hoosac Tunnel.

Twenty-third Street.....	New York.....	In operation.
Upper Hudson.....	Schenyville to Fort Edward.....	Consolidated with S. & U. H. R. in 1872.
Utica, Ithaca and Elmira.....	Elmira to Cortland.....	Formerly Utica and Cortland, and the Utica, Horseheads and Elmira; in 1878 reorganized as Utica, Ithaca and Elmira Railway.
Watkins and Havana Street.....	Schenyler to Havana.....	Extinct.
Washington Street and State Asylum.....	Binghamton.....	In operation.
Whitestone and Westchester.....	Village of Whitestone.....	Consolidated into Flushing, North Shore and Central in 1874.
Amsterdam Street.....	Villages of Amsterdam.....	In operation.
Bay Ridge and Fort Shore.....	Bay Ridge and Canisteo.....	Extinct.
Borville and Fort Ontario.....	Borville to Fort Ontario.....	Not in operation. Consolidated into New York, Boston and Albany.
Boston, House Tunnel and Albany.....	Stephenston to Albany.....	Consolidated into New York, Boston and Albany.
Cazenovia and Canastota Railway.....	Cazenovia to Canastota.....	Formerly Cazenovia, Canastota and De Ruyter.
Cazenovia, Canastota and De Ruyter.....	Canastota to De Ruyter.....	Formerly Cazenovia and Canastota, and the Cazenovia and De Ruyter Railroad Companies; reorganized in 1876.
Central Crostown.....	New York.....	In operation.
Central Railroad Extension.....	Farmingdale to Fire Island.....	Consolidated into Flushing, North Shore & Central in 1874.
Central (Staton Island).....	New Brighton to Tottenville.....	Extinct.
Christopher and Tenth Street.....	New York.....	In operation.
Cornling, Cowanesque and Antrim.....	Cornling, N. Y., to Antrim, Pa.....	Formerly Blossburgh and Cornling; leased to Fall Brook Coal Company.
Dunkirk, Allegheny Valley and Pittsburgh.....	Dunkirk to Oil City, Pa.....	Formerly Dunkirk, Warren and Pittsburgh Railroad, and in 1878 reorganized as Pennsylvania corporation; in operation.
East Brooklyn Railway.....	Kings County.....	Extinct.
Geneva, Southwestern and Hornellsville.....	County of Steuben.....	Consolidated into Geneva and Hornellsville in 1876.
Hempstead and Smithtown.....	Hempstead to Smithtown.....	Extinct.
Hornellsville and Almond Street.....	Almond to Hornellsville.....	Extinct.
Hudson Tunnel.....	New York.....	Extinct.
Iron Hill.....	Dutchess and Putnam counties.....	Extinct.
Jersey City and Albany.....	Fort Clinton to New Jersey State Line.....	Formerly Ridgefield Park and Rockland Central. Reorganized in 1878 as the Jersey City and Albany Railway Co.
Long Island City and Maspeth.....	Long Island City.....	Extinct.
Mount Prospect and Carroll Street.....	Binghamton.....	Extinct.
New Jersey and New England.....	Hudson R. Sus. Brs. to N. J. State Line.....	Formerly New York, Boston and Northern, and the Harlem Extension Co. Extinct.
New York, Boston and Montreal.....	Conn. State Line to Harlem River.....	In 1873 consolidated into New York, Boston and Montreal; formerly Dutchess and Columbia, Putnam and Dutchess, and the New York and Boston.
New York, Boston and Northern.....	Conn. State Line to Harlem River.....	Formerly Boston, Hartford and Erie. In operation.
New York and New England.....	Boston, Mass., to Hudson River.....	Extinct.
New York and New Jersey.....	New Jersey State Line to.....	Extinct.
New York State.....	Newburgh to Buffalo.....	Extinct.
Pine Plains and Rhinebeck.....	Union Corners to Rhinecliff.....	Extinct.
Rochester and Charlotte Boulevard and R. R. Co.....	Rochester to Charlotte.....	Extinct.
Schenectady City.....	Schenectady.....	Extinct.

LIST OF COMPANIES formed under the Laws of this State — (Continued).

NAME OF ROAD.	Where Located.	Remarks.
Schenectady and Duaneburgh	Schenectady to Duaneburgh	Formerly Schenectady and Susquehanna. Leased to Delaware and Hudson Canal Co.
Staten Island	Tottenville to Vanderbilt's Landing	Reorganized.
St. Lawrence Valley	Coxsack to Ogdensburg	Extinct.
Syracuse and Chenango	Syracuse to Earlville	Formerly Syracuse and Chenango Valley; in 1877 reorganized as Syracuse, Chenango and New York.
Syracuse Junction	Onondaga county	Leased to N. Y. Cent. & Hudson R. R.; consolidated into
Water and Clinton Street	Blanchard	Extinct.
Yonkers	Yonkers to New York and Boston R. R.	Extinct.
Boston, New York and Chicago	Rensselaer to Cayuga county	Not in operation. Extinct.
Brooklyn Elevated Silent Safety	Brooklyn to Jamaica	Name changed in 1875.
Buffalo Creek Extension	Buffalo	Extinct.
Buffalo Crosstown	Buffalo	Extinct.
Cunarsie and Flatbush	Prospect Park to Jamaica Bay	Extinct.
Catskill Horse	Catskill	Extinct.
Chautauqua Lake	Mayville to Jamestown	Extinct.
East Brooklyn Railroad	Brooklyn	Abandoned.
Flushing, North Shore and Central	Long Island City to Babylon	Formerly Flushing and North Side, Central Central Extension, Whitestown and Westchester, North Shore, North Shore and Port Washington, and Roslyn and Hunter's Point. Leased to Long Island Railroad.
Geneva, Ithaca and Athens	State Line to Geneva	Formerly Ithaca and Athens, and Geneva and Ithaca. In 1878 reorganized as Geneva, Ithaca and Sayre.
Greenwich and Johnsonville	Greenwich to Johnsonville	Formerly Union Village and Johnsonville Reorganized in 1879 as the Greenwich and Johnsonville Railway Co.
Glendale and East River	Brooklyn to Glendale	Leased to New York and Manhattan Beach R. R.
Gloversville and Kingsboro	Gloversville to Kingsboro	Now J. G. & K. R. Co. See R. R. Com's report, 1883.
Houston, West Street and Pavonia Ferry	New York	Formerly Avenue C Railroad. In operation.
Johnstown, Gloversville and Kingsboro	Johnstown to Kingsboro	Leased to Marie E. Decker. In operation.
Lake Ontario	Orange to Lewiston	Formerly Lake Ontario Shore. In 1875 consolidated with Rome, Watertown and Ogdensburg Railroad.
Lawrenceville and Erie	Lawrenceville to Erie Railway	Extinct.
Long Island City Shore	Hunter's Point to Astoria	Reorganized as Stelway and Hunter's Point. In operation.
Long York Quick Transit	New York	Extinct.
New York and South Side	Patuxent to Long Island Railroad	Extinct.
New York Underground Extension	New York	Extinct.
North Flushing and Flatbush	Brooklyn	Formerly Williamburgh and Flatbush. In operation.
North Shore and Port Washington	Manhasset to Sand Point	In 1874 consolidated into Flushing, North Shore & Central.
Oriskany	Oriskany	Abandoned.
Rome Street	Rome	Extinct.

Roslyn and Huntington.....	Roslyn to Northport.....	In 1876 consolidated into Flushing, North Shore and Central. Extinct.
Rye Lake.....	Rye Lake to Kensico Station.....	Extinct. Schoharie Valley Ry. in 1890. In operation.
Schoharie Valley.....	Schoharie to Albany and Sus. Railroad.	Sold and reorganized under same name. Reorganized as
Southern of Long Island.....	Southern to Patchogue.....	Leased to Long Island. Reorganized as the Brooklyn
South Ferry.....	New York.....	In operation.
South Ferry and Prospect Park.....	Brooklyn.....	Extinct.
Syracuse North Western.....	Syracuse to S. P. and Oswego Railroad.	In 1873 consolidated with S. P. and Oswego Railroad.
Utica and Mohawk.....	Utica to Mohawk.....	In operation.
1875.		
Brooklyn City Elevated.....	Brooklyn to Woodhaven.....	Not in operation.
Cayuga Railway.....	Cayuga to Ithaca.....	Formerly Cayuga Lake Railroad. In 1878 reorganized as Cayuga Southern.
Charlotte Lake View.....	Charlotte to Lake Ontario.....	Not in operation.
Fonda and Fultonville.....	Fonda to Fultonville.....	In operation.
Garnerville.....	N. J. and N. Y. R. R. to Haverstraw.....	Owned and operated by the New Jersey and New York R. R. Co.
Illion Street.....	Illion to N. Y. C. and H. R. Railroad.....	Abandoned.
New Jersey and New York.....	Erle Junction to Stony Point.....	In operation.
Pennsylvania and Erie Coal and Railway Co.....	Carrollton, N. Y., into Pennsylvania.....	Formerly Buffalo, Brad. and Pitts. Railroad, whose line was leased and is now operated by the Erie.
Penn Yan and Geneva.....	S. B. and C. Railroad to Geneva.....	Not in operation.
Port Jervis and Monticello.....	Port Jervis to Monticello.....	Formerly Monticello and Port Jervis. In operation.
Poughkeepsie, Hartford and Boston.....	Hudson River to Conn. State Line.....	Formerly owned by Poughkeepsie and Eastern. In operation.
Prospect Park and Coney Island.....	Brooklyn to Coney Island.....	Formerly Park Avenue, and Greenwood and Coney Island. In operation.
Southern Hempstead Branch.....	South Side Railroad to Hempstead.....	Formerly New York and Hempstead. Leased to L. I.
Syracuse, Geneva and Corning.....	Geneva to Corning.....	Leased to Fall Brook Coal Company.
Syracuse and Northern.....	Syracuse to Rome, W. and Ogdensburg.....	Formerly Syracuse Northern. In 1876 consolidated with Rome, Watertown and Ogdensburg Railroad.
Tioga and Savona.....	S. B. and C. Railroad to C. and C. R. R. Rondout to Oneonta.....	Not in operation. Extinct.
Ulster and Delaware.....	Utica.....	Formerly New York, K. and Syracuse. In operation. Extinct.
Utica and Fair Ground.....	.....	.....
1876.		
Brooklyn and Coney Island.....	Coney Island to Brooklyn.....	Abandoned.
Buffalo Erie Basin.....	Buffalo.....	In operation.
Cazenovia, Canastota and De Ruyter.....	Canastota to De Ruyter.....	In 1876 reorganized. In operation.
Coney Island and East River.....	Coney Island to Brooklyn.....	In 1877 consolidated into Brooklyn, Flatbush and C. I.
Fishkill and Newburgh.....	D. & C. Railroad to Newburgh.....	Not in operation.
Flatbush, Coney Island Park and Concourse.....	Prospect Park to Coney Island.....	In 1877 consolidated into Brooklyn, Flatbush and C. I.
Geneva, Hornellsville and Pine Creek.....	Geneva to West Branch, Pa.....	Formerly Geneva and Hornellsville, and the Rochester western and Hornellsville. In 1876 consolidated into Geneva, Hornellsville and Pine Creek.
Geneva and Hornellsville.....	Geneva to Hornellsville.....	Operated by Utica, Ithaca and Elmira. Extinct.
Ithaca, Auburn and Western.....	Auburn to Ithaca.....	Not in operation.
Jerome Park Branch.....	Jerome Park to N. Y. and H. Railroad.....	Not in operation.
Kings Bridge and Yonkers.....	Kings Bridge to Yonkers.....	Leased to New York and Manhattan Beach Railroad.
Kings County Central.....	Brooklyn to Coney Island.....	In operation.
Manhattan Railroad.....	New York.....	.....

LIST OF COMPANIES formed under the Laws of this State—(Continued).

NAME OF ROAD,	Where Located.	Remarks.
New York, Bay Ridge and Jamaica.....	Bay Ridge to New Lots Road.....	Leased to the New York and Manhattan Beach Railroad.
New York and Rockaway Beach.....	New York to Rockaway.....	Abandoned.
New York and Sea Beach.....	County of Kings.....	Not in operation.
Niagara Falls Branch.....	Niagara Falls to R. W. & O. R. R. R.....	Leased to R. W. & O. R. R. Co. [Ry. 1880; in operation.
Ontario Southern.....	Sodus Falls to Hall's Corners.....	Formerly Sodus Pt. & Southern; consol. into L. O. South.
Prospect Park and Flatbush.....	County of Kings.....	Leased to Grand Street, Pros. Park and Flatbush R. R. Co.
Sedro Bank.....	Brooklyn to Coney Island.....	Not in operation.
Syracuse and Southwestern.....	Syracuse to Utica C & B. R. R.....	Abandoned.
West End and Glenwood.....	Union to Binghamton.....	See State Engineer's report, 1882.
Astoria and Hunter's Point..... 1877.	Astoria to Hunter's Point.....	In 1877 reorganized; in operation.
Brooklyn and Coney Island.....	Brooklyn to Coney Island.....	Not in operation.
Brooklyn, Flatbush and Coney Island Railway.....	Brooklyn to Coney Island.....	Formerly Flatbush and Coney Island Park and Concourse
Boston, Albany and Schenectady.....	Schenectady to Petersburg.....	and the Coney Island East River; in operation.
Boston, Hoosac Tunnel and Western.....	Troy to Lake Ontario.....	Not in operation. Consol. into N. Y. R. R. & Schy.
Buffalo City.....	Buffalo.....	Not in operation. Consol. into Bos. H. Tun. & West'n Ry.
Chambers Street.....	Buffalo.....	Abandoned. See State Engineer's report, 1882.
Coney Island Beach.....	New York.....	Not in operation.
Coney Island High and Low Water Mark.....	Coney Island.....	Abandoned. See State Engineer's report, 1882.
Coney Island Surf.....	Coney Island.....	Not in operation.
Forty-second Street Crosstown.....	Coney Island.....	Abandoned. See State Engineer's report, 1882.
Geneva, Ithaca and Sayre.....	Ithaca to Pennsylvania State Line.....	Not in operation.
Marginal.....	Coney Island.....	Formerly Geneva, Ithaca and Athens, in operation.
Midwout, Amersfort and Coney Island.....	County of Kings.....	Not in operation.
Monroe and Greenwood Lake.....	Monroe to Greenwood Lake.....	Not in operation.
Newburgh, Dutchess and Connecticut.....	Fishkill to Pine Plains.....	Abandoned. See R. R. Com's report, 1883.
New York and Manhattan Beach.....	Brooklyn to Coney Island.....	Formerly Dutchess and Columbia; in operation.
New York, Brooklyn and Sea Shore.....	Brooklyn to Rockaway.....	Leased to Long Island R. R. Co.
New York Central Niagara River.....	N. Y. C. & H. R. R. to Niagara River.....	Not in operation.
New York, Westchester and Putnam.....	Reorganization of N. Y. & Boston R. R.....	Leased to N. Y. C. & H. R. R. R.
New York, Woodhaven and Rockaway.....	Long Island City to Rockaway Beach.....	Formerly New York and Boston. Leased to New York City
Ocean Palace Elevated.....	Coney Island.....	In operation.
Orangetown and Morristown.....	Morristown to Ogdensburgh.....	Not in operation.
Orange County.....	Orange County.....	Leased to Utica and Black River.
Penn Yan and New York.....	Penn Yan to Dresden.....	Abandoned. See State Engineer's report, 1882.
Rochester, Nunda and Pittsburgh.....	Rochester to Pennsylvania State Line.....	Not in operation. Isolated into Roch. N. Y. & Penn.
Silver Lake.....	Galena to Caledonia.....	Not in operation. Formerly Roch. Nunda and Penn. Con-
Sheephead Bay and Coney Island.....	Kings County.....	Formerly Rochester and Pine Creek; in operation.
South Brooklyn Central.....	Brooklyn.....	Not in operation.
Syracuse, Chenango and New York.....	Syracuse to Earlville.....	Formerly South Brooklyn and Park; in operation.
		Formerly Syr. & Ch.; in op. Consol. into B. H. T. & W. Ry.

Syracuse and Southwestern.....	Syracuse to U. C. & B. R. R.	Project abandoned.
Utica and Clinton Narrow Gauge.....	Utica to Ilion.....	Abandoned.
Walkill Valley.....	Montgomery to Albany.....	Reorganized; in operation. Formerly Walkill Valley R. Y.
1873		
Addison, Oneida and Cwanesque Valley.....	Addison to Pennsylvania State Line.....	Not in operation; abandoned. See State Eng'r's report, 1882.
Brooklyn, Coney Island and Rockaway.....	Brooklyn to Rockaway.....	Formerly Brooklyn, Flatbush and Coney Island Railroad; not in operation.
Buffalo and Southwestern.....	Buffalo to Jamestown.....	Formerly Buffalo and Jamestown; in operation.
Buffalo, Syracuse and Albany.....	Buffalo to Albany.....	
Canal.....	Elmira to Horseheads.....	Leased to Utica, Ithaca and Elmira R. R. Co.
57 Cayuga Southern.....	Cayuga to Ithaca.....	Formerly Cayuga; consolidated into the Geneva, Ithaca and Sayre in 1879.
Central Saratoga.....	Schenectady to Saratoga.....	Not in operation.
City (Poughkeepsie).....	Poughkeepsie.....	Formerly Poughkeepsie City; in operation.
Coney Island and Rockaway.....	Coney Island to Rockaway.....	Not in operation.
Forty-second St., Manhattanville and St. Nicholas Av.	New York.....	Not in operation.
Geneva and Lyons.....	Geneva to Lyons.....	Leased to N. Y. C. & H. R. R. R. R.
Kings County.....	Coney Island to Parkville.....	Abandoned. See R. R. Com's report, 1883.
Marine.....	Coney Island.....	In operation.
Metropolitan Elevated.....	New York.....	Formerly Gilbert Elevated; name changed by order of the court; leased to Manhattan R. R. Co.
Middle Central.....	Sodus Bay to Waverly.....	Not in operation.
New England, New York and Pennsylvania.....	New Jersey State Line to Albany county.....	In operation.
New York, Brooklyn and Sea Beach.....	Brooklyn to Flatbush of the New York and Sea Beach Railroad and Bay Ridge, on Manhattan Beach Railroad.....	Formerly Erie; in operation.
New York City and Northern.....	New York to Waverly.....	Not in operation.
New York, Lake Erie and Western.....	New York to Buffalo.....	Not in operation.
Olean, Buffalo and Coney Island.....	Kings County.....	Not in operation.
Prospect Park and Clarkson Street.....	Olean to Pennsylvania State Line.....	Merged into Buffalo, New York and Phila.; in operation.
Rochester Elevated.....	Town of Elmira.....	Not in operation.
Rockaway and Froidcoquit.....	Rockester to Froidcoquit.....	Not in operation.
Saratoga and Stedins.....	Springville to Saratoga Junction.....	Not in operation.
Utica, Ithaca and Elmira Railway Company.....	Elmira to Cortland.....	See State Eng'r's report, 1882.
Westchester County.....	Township of Westchester to Mt. Vernon.....	In operation. Utica, Ithaca and Elmira R. R. reorganized. Abandoned. See State Engineer's report, 1883.
1879		
Amsterdam, Chautauque and Northern.....	Town of Amsterdam, Mont. Co.....	In operation.
Brighton Beach Railway Co.....	County of Kings.....	Not in operation.
Brooklyn, Bath and Coney Island.....	Brooklyn to Coney Island.....	Reorganized.
Brooklyn City Elevated and Atlantic Beach.....	Brooklyn and New York.....	Leased to New York and Brooklyn Elevated R. R. Co.
Brooklyn, Flatbush and Rockaway Beach.....	Brooklyn to Town of Gravesend.....	Not in operation.
Buffalo, Chautauque Lake and Pittsburgh.....	Kings county.....	Formerly Buffalo, Corry & Pittsb'g, and Corry and State L.; reorganized as Pittsb'g, Titusville & Buff., 1880; in opera'n.
Chateaugay.....	Bronxton, N. Y., to Corry, Pa.....	In operation.
Dunkirk and Lyons.....	County of Clinton.....	Abandoned. See State Engineer's report, 1883.
Dunkirk to Brocton.....	Dunkirk to Brocton.....	

LIST OF COMPANIES formed under the Laws of this State — (Continued).

NAME OF ROAD.	Where Located.	Remarks.
Dunkirk, Chautauqua Lake and Pittsburgh.....	Brocton, N. Y., to Corry, Pa.....	Reorganization of the Buffalo, Corry and Pittsbn; consolidated into Buffalo, Chautauqua Lake and Pittsburgh.
Eastern Railroad Co. of Long Island.....	East N. Y. to Rockaway Beach.....	Not in operation.
Greenwich and Johnsonville Railway.....	Greenwich to Johnsonville.....	Reorganization of the Greenwich and Johnsonville Railroad; in operation.
Jackson and Steinway Ave. R. Co. of L. I.....	Long Island City.....	Merged into Steinway and Hunter's Point by exchange of Reorganization of the Jersey City and Alb. R. R.; consolidated into the Jersey City & Alb. R'y Co. of N. Y. & N. J. Formerly J. C. & Alb. of N. Y.; also J. C. & Alb. of N. J.
Jersey City and Albany R'y Co. of the State of New York and New Jersey.....	Jersey City, N. J., to Tappan, N. Y.....	Consolidation into North River Railroad Co. Not in operation.
Kings County.....	Kingston to Rondout.....	Reorganization of the Kingston & Rondout, N. Y.; in op. Not in operation.
Kings County Elevated.....	Brooklyn, Kings Co.....	See State Engineer's report, 1882.
Locust Grove and Brighton Beach.....	Locust Grove to Brighton Beach.....	Abandoned. See State Engineer's report, 1882.
Manhattan Beach and West Brighton.....	Manhattan Beach to W. Brighton Beach.....	Abandoned.
New York and Brighton Beach.....	Locust Grove to Brighton Beach.....	Not in operation.
New York and Coney Island.....	County of Kings.....	Not in operation.
New York, Greenwood and Coney Island.....	Brooklyn.....	Not in operation.
New York, Long Island and Rockaway.....	Fresh Pond to Van Wickles.....	Not in operation.
Poughkeepsie Grand Junction.....	Town of Floyd to a Junc. with the Wallkill Valley.....	Abandoned. See State Engineer's report, 1882.
Poughkeepsie and Grand Junction.....	Hudson River to Howells.....	Abandoned.
Prospect Park and Sea Side.....	Prospect Park to Flatlands.....	Consolidated into Poughkeepsie and Grand Junction.
Rochester and Genesee Valley Canal.....	Mt. Morris to Cuba.....	Consolidation of the Poughkeepsie Grand Junction with the State Line and Eastern; not in operation.
Rochester and Lake Ontario.....	Rochester to Lake Ontario.....	Not in operation.
Rockaway Beach and Far Rockaway, Marine.....	Far Rockaway Beach to Extreme W. end Rockaway Beach.....	Abandoned. See State Engineer's report, 1882.
Speer's Quick Transit.....	Brighton Beach Hotel to Sea Beach Palace, Kings Co.....	In operation.
South Brooklyn.....	Brighton Beach Hotel to Sea Beach Palace, Kings Co.....	Not in operation.
State Line and Eastern.....	Brooklyn.....	Not in operation.
Yonkers Rapid Transit.....	Gardner Station to Port Jervis.....	Consolidated into Poughkeepsie and Grand Junction.
	Kings Bridge, N. Y., to Yonkers.....	Not in operation.
Attica and Arade.....	Attica to Arade.....	Not in operation.
		Reorganization under same name by chap. 577, Laws of 1880; not in operation.
Auburn and Owasco Lake.....	Auburn to foot of Owasco lake.....	Reorganization of company under same name; in operation.
Boston, New York and Western.....	Schenectady to Utica.....	Not in operation.
Brighton (No. 1).....	Coney Island.....	Not in operation.
Brighton (No. 2).....	Coney Island.....	Not in operation.
Brighton Beach and New York.....	Coney Island.....	Not in operation.
Broadway Central Underground.....	South Ferry, N. Y., city, to northern terminus, Tenth avenue.....	Abandoned. See State Engineer's report, 1882.
		Not in operation.

1880.

Broadway and Rockaway Beach.....	Foot Broadway, Brooklyn, to E. New York.	Not in operation.
Broadway Underground.....	Park place and Broadway, N. Y. city to 14th street and Broadway.....	Abandoned. See State Engineer's report, 1882.
Broadway Underground Connecting.....	S. Ferry, N. Y. city, to Kingsbridge.....	Abandoned.
Brooklyn and Long Island City.....	Greenwood Cemetery to Fulton Ferry.....	Not in operation.
Brooklyn and Montauk.....	Brooklyn to Patchogue.....	Reorganization of South Side of Long Island and of Southern of Long Island; in operation.
Buffalo, Pittsburgh and Western.....	Buffalo to Portland.....	In operation.
Catskill Mountain.....	Catskill to Palenville.....	In operation.
Chambers Street Cross-town.....	Chambers street, N. Y. city.....	Not in operation.
Concourse.....	Coney Island.....	Not in operation.
Coney Island Center and Safety Rails Elevated.....	Coney Island.....	Abandoned. See R. R. Com's report, 1883.
Coney Island Elevated.....	Coney Island.....	In operation.
Coney Island Sea View Elevated.....	Coney Island.....	Abandoned. See R. R. Com's report, 1883.
Coney Island, Sheepshead Bay and Ocean Avenue.....	Ocean Park Way, Coney Island, to Jockey Club race track.....	Not in operation.
Coney Island Transit.....	Coney Island Iron Pier to Jockey Club race track.....	Not in operation.
Genesee Valley Canal.....	Rochester to Millgrove.....	Not in operation.
Harlem River and Port Chester Rapid Transit.....	125th st., N. Y. city, to Westchester ave.....	Leased to Buffalo, N. Y. and Phila. R. R. Co.; in operation.
Herkimer, Newport and Poland Narrow Gauge.....	Herkimer to Poland.....	Extinct.
Hudson Tunnel.....	Hudson river, opposite New York city.....	In operation.
Hudson Tunnel of New York.....	Hudson river, opposite New York city.....	Formerly Hudson Tunnel of New York; not in operation.
Jamaica and Brooklyn Road.....	Jamaica to East New York.....	Consolidated in 1880 with Tunnel R. R. Co. of N. J., under name of Hudson Tunnel R. R. Co.; not in operation.
Jerome Park.....	Jerome Park.....	Formerly Jamaica, Woodhaven & Brooklyn; in operation.
Lake Ontario Southern.....	Lake Ontario Southern.....	In operation.
Lansingburgh and Cohoes.....	Lansingburgh to Cohoes.....	Consolidation of Ontario Southern and Geneva, Hornellsville and Pine Creek; in operation.
Madison Avenue Underground.....	23d street, N. Y. city, to Harlem river.....	Leased by Troy and Lansingburgh R. R. Co.; in operation.
Mechanicville and Fort Edward.....	Mechanicville to Mechanicville.....	Not in operation.
New York and Atlantic.....	37th street and 9th avenue, Brooklyn, to Tunnel's, Coney Island avenue.....	Not in operation.
New York and Atlantic Coast.....	Bay Ridge to Hicks Beach.....	Not in operation.
New York, Boston and Albany.....	New York to Albany.....	Not in operation.
New York, Boston, Albany and Schenectady.....	New York to Schenectady.....	Abandoned. See State Engineer's report, 1882.
New York and Brooklyn Elevated.....	4th avenue and 42d street, N. Y. city, to Brooklyn.....	Consolidated into New York, Boston, Albany and Schenectady; not in operation.
New York and Brooklyn Marine.....	Fulton st., N. Y. city, to Fulton st., Blyn.....	Consolidated of N. Y., Boston and Albany R. R., Boston, Hoosac Tunnel and Albany R. R., and the Boston, Albany and Schenectady R. R.; not in operation.
New York, Connecticut and Eastern of New York.....	Greenwich to New York city.....	Abandoned. See State Engineer's report, 1882.
New York, Fort Hamilton and Coney Island.....	Utrecht to Gravesend.....	Not in operation.
New York, Lackawanna and Western.....	Binghamton to Suspension Bridge.....	Leased to Delaware, Lackawanna and Western R. R. Co.
New York and Long Beach.....	Ocean Point to Long Beach.....	Operated by Long Island R. R. Co.
New York Northern.....	Schenectady to Ogdenburg.....	Not in operation.
New York Ontario and Western.....	Oswego to New Jersey State Line.....	Not in operation.
New York, Pennsylvania and Ohio.....	Salamancea, N. Y., to Dayton, Ohio.....	Formerly Atlantic and Great Western; leased to New York, Lake Erie and Western; in operation.

[illegible]

LIST OF COMPANIES formed under the Laws of this State — (Continued).

NAME OF ROAD.	Where located.	Remarks.
Ocean Beach and Sheepshead Bay Railway.....		Not in operation.
Olean.....	Coney Island to Avenue Y, town of Gravesend.....	Consolidated with Allegany Central.
Owasco River Railway.....	Olean to Allentown.....	In operation.
Port Dickinson and Chenango River.....	Auburn to Owasco lake.....	In operation.
Potomac and Montreal.....	Port Dickinson to Chenango river.....	See State Engineer's report, 1893.
Rochester and Charlotte.....	Norwood to Fort Covington.....	Abandoned. See State Engineer's report, 1893.
Rochester, Lake Side and Braddock's Bay.....	Rochester to Charlotte.....	Consolidated into Rochester and Pittsburgh in 1893.
Rochester, New York and Pennsylvania.....	Rochester and along shore Lake Ontario. Mount Morris to Ross Junction.....	Not in operation.
Rochester and Pittsburgh.....	Rochester to Salamanca.....	Consol. of Roch., Nunda and Pitts. and Roch., N. Y. & Penn.; operated by Buff., N. Y. & Penn. R. R. Co.
Rochester and Southern.....	Rochester to Hemlock lake.....	Reorganization of Rochester and State Line. Consolidated into Rochester and Pittsburgh in 1893.
Rochester and Windsor Beach Railway.....	Rochester to Irondequoit bay.....	Not in operation.
Rockaway Beach Transit Co.....	West point of Rockaway beach to Long Island Railroad.....	Not in operation.
Salamanca, Bradford and Alleghany River.....	New York State line to Salamanca.....	Consolidated with Buffalo, Pittsburgh and Western.
Salamanca and Warren.....	Salamanca to New York State line.....	Abandoned. See State Engineer's report, 1893.
Sea Breeze Avenue.....	Coney Island & Brooklyn depot through Sea Breeze and Coney Island avenues.....	Not in operation.
South Calro and East Durham.....	South Calro to East Durham.....	Not in operation.
South Ferry and Sea Side Direct Transit Co.....	South ferry to Rockaway inlet.....	Not in operation.
Staten Island, North and South Shore.....	Elm park, in N. Y. field, to New Dorp lane.....	Not in operation.
Stony Clove and Catskill Mountain.....	Phoenixia to Hunter and one mile from Catskill Mountain house.....	Not in operation.
Tonawanda Valley and Cuba.....	Arade to Cuba.....	In operation.
Tonawanda Valley and Cuba.....	Attica to Cuba.....	In operation; consolidated into Tonawanda Valley and Cuba.
Tonawanda Valley Extension.....	Currier's Corners to Sardula.....	Consolidation of Tonawanda Valley, Tonawanda Valley Extension, and Tonawanda Valley and Cuba.
Wellsville, Bolivar and Eldred.....	Wellsville to Hamlet.....	Consolidated with Tonawanda Valley and Cuba.
Westchester Railway.....	Harlem river to Danbury, Conn.....	Leased to Bradford, Eldred & Cuba R. Co. In operation.
Addison and Northern Pennsylvania Railway.....	Addison to Pennsylvania State line.....	Reorganization of the New York, Housatonic & Northern.
Adirondack Railway	Saratoga Springs to St. Lawrence river.....	In operation.
Allegany Central.....	Olean to Swails.....	Formerly Adirondack Co. In operation.
Binghamton and Williamsport Railway.....	Binghamton to Pennsylvania State line.....	Consolidated of Olean, Friendship and Allegany Central.
Flower Bay and Hunter's Point.....	In Long Island City.....	Abandoned. See R. R. Com's report, 1893.
Brooklyn Elevated Railway Construction Co.....	In city of Brooklyn and Kings county.....	Not in operation.
Buffalo, Aurora and South-western.....	Aurora to Hume.....	Not in operation.
Buffalo, Cayuga Valley and Pine Creek Railway.....	Buffalo to Gainesville.....	Not in operation.

Buffalo and Great Western.....	In city of Buffalo.....	Not in operation.
Chautauqua Valley.....	Genesee Valley Canal R. R. to Swains ..	Abandoned. See State Engineer's report, 1882.
Conesus Lake.....	Frew's switch to Lakeville.....	Not in operation.
Cortland and Homer.....	Cortland to Homer.....	Not in operation.
Elmira Connecting.....	In city of Elmira.....	Not in operation.
Erle and Black Rock.....	In city of Buffalo.....	Not in operation.
Erie and Niagara River.....	Buffalo to Tonawanda.....	Not in operation.
Genesee Valley Junction.....	G. V. C. R. to N. Y. C. & H. R. R. R. in Rochester.....	Abandoned. See State Engineer's report, 1883.
Genesee Valley Terminal.....	G. V. C. R. in Chili, to N. Y. C. & H. R. R. R.....	Abandoned. See State Engineer's report, 1883.
Hay's Corners, Ovid and Willard.....	Hay's Corners to Willard asylum.....	Leased to Buffalo, New York and Philadelphia R. R. Co.
Hornellsville and Conchocton Valley Railway.....	Hornellsville to N. Y. L. E. & Western Railway, in town of Avoca.....	Leased to Geneva, Ithaca and Sayre R. R. Co.
Lelahigh and Hudson River.....	Greycourt, N. Y., to Belvidere, N. J.....	Abandoned. See R. R. Com's report, 1883.
Kaaterskill.....	Tannersville junction, to Kaaterskill station. In city of Buffalo.....	Consolidation of Lehigh and Hudson River, and Warwick Valley. In operation.
Lehigh Valley Railway.....	Buffalo to Lancaster.....	Not in operation.
Lehigh Valley Railway.....	In city of Newburgh.....	Not in operation.
Newburgh Horse.....	Yonkers to Connecticut State line.....	Not in operation.
New York and East River.....	New York city to New Haven.....	Not in operation.
North and East Greenbush.....	North Greenbush to East Greenbush.....	Not in operation.
Park Avenue.....	In city of Binghamton.....	Not in operation.
Perry.....	East Gainesville to Silver Lake R. R.....	Now under construction.
Portage and Cuba Low Grade.....	In town of Portage to Cuba.....	Leased to Nelson Snow. In operation.
Portchester and Tarrytown.....	Portchester to Tarrytown.....	Consolidated in 1883 with Rochester and Pittsburgh.
Richfield Springs and Cherry Valley.....	Richfield Springs to Cherry Valley.....	Not in operation.
Rochester and Ontario Belt.....	Rondequilt bay to Rochester.....	Not in operation.
Rochester and Pittsburgh.....	Rochester to Walston Junction.....	In operation.
Saratoga and Mt. McGregor Railway.....	Saratoga Springs to Mt. McGregor.....	Consolidation of Rochester and Pittsburgh, Rochester and Charlotte, Buffalo, Rochester and Pittsburgh, Great Valley and Bradford, Bradford and State Line and the Pittsburgh and New York Railroad Companies. In operation.
Saratoga, Mt. McGregor and Lake George.....	Saratoga Springs to Lake George.....	Abandoned.
Schenectady, Albany and North Adams.....	Schenectady to Hoosick Tunnel.....	In operation.
Schenectady and Ontario Railway.....	Schenectady to Northville.....	Not in operation.
Tonawanda and Genesee Valley and Pine Creek.....	Syracuse to Tonawanda.....	Not in operation.
Tonawanda, Warsaw and Genesee Valley.....	Town of R. Ashford to Penn. State line.....	Not in operation.
Troy and Chatham Railway.....	Arcade to Chatham.....	Not in operation.
Troy and Extension Railway.....	Troy to Chatham.....	Not in operation.
United Saratoga Harbort and Pine Creek.....	City of Brooklyn.....	Not in operation.
Wellsville, Conduitsport and Pine Creek.....	Wellsville to Pennsylvania State line.....	Not in operation.
Wellsville and Fillmore.....	Wellsville to Fillmore.....	Not in operation.
Wellsville, Honesco and Carver.....	Marsh creek to Carver.....	Not in operation.
West Shore and International Bridge Railway.....	Cheektowaga to International bridge.....	Not in operation.

LIST OF COMPANIES formed under the Laws of this State — (Continued).

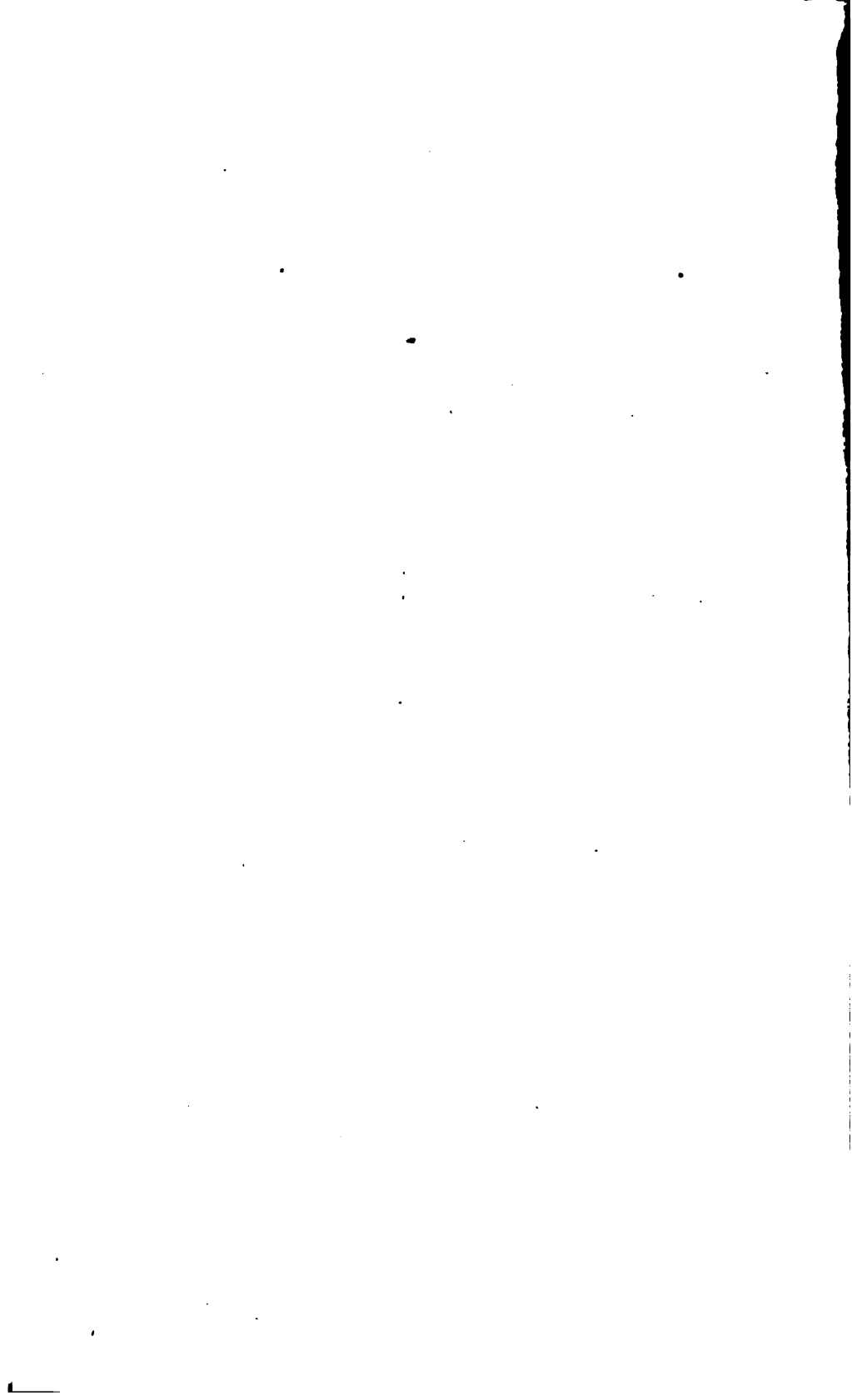
NAME OF ROAD.	Where Located.	Remarks.
1883.		
Batavia, Albion and Lake Ontario	Batavia to Oak Orchard Harbor, L. Ontario.	Not in operation.
Binghamton Central	In city of Binghamton.	Not in operation.
Broadway and Bowery Bay	In Long Island City.	Merged into Steinway and Hunter's Point. In operation.
Brooklyn Cable	In city of Brooklyn.	Not in operation.
Brooklyn and Long Island Trunk Line	Brooklyn to Jamaica.	Not in operation.
Brooklyn and Queens County	Brooklyn to Jamaica.	Not in operation.
Carthage and Adirondack	Carthage to Pheasant.	Not in operation.
Court Street and River Side	In the city of Binghamton.	Not in operation.
Dahl and Hudson River	Delhi to Middletown.	Not in operation.
East Buffalo Terminal	In the city of Buffalo.	Not in operation.
Exe and Co. Terminal	Cortland to Syracuse.	Not in operation.
Fort Pond Branch	Bridgehamton to Chuloden Point.	Not in operation.
High Bridge Elevated Inclined.	In the city of New York.	Not in operation.
Island	In the city of Buffalo.	Not in operation.
Jamestown	In the village of Jamestown.	In operation.
Katonskill Street	Tannersville to Hotel Kaaterskill.	In operation.
Katonskill, Warwick and Easton	Greycourt to Montgomery.	Not in operation.
Little Falls, Oliveville and Piseco Lake	Little Falls to Piseco lake.	Not in operation.
Long Island City and Manhattan Beach	Fresh Pond to a point of junction with the Brooklyn and Rockaway Beach.	Operated by Long Island R. R. Co.
Long Island City and Newtown	In Long Island City.	In operation.
Lockawanna and Pittsburg	Rockville to Perkinsville.	Not in operation.
Malone and Canada	Fort Covington to Malone.	Not in operation.
Manhatten Beach	Coney Island Creek to Elevated Road.	Abandoned. See R. R. Com's report, 1883.
New England, Lackawanna and Pittsburg	Wolcott to Perkinsville.	Not in operation.
New York, Danbury and Boston	New York city to Jersey City.	Not in operation.
New York and New Jersey Tunnel	New York city to Jersey City.	Not in operation.
New York Northern	Waverly to Sodus Bay.	Not in operation.
New York, Richfield Springs and Cooperstown	Pl. Plain to Richfield Spgs and Cooperstown.	Not in operation.
New York and Sea Beach Railway	Bay Ridge to Coney Island.	Not in operation.
Niagara Falls and Suspension Bridge	Niagara Falls to Suspension Bridge.	In operation.
Northern Adirondack	Molra to St. Regis Falls.	Not in operation.
Oakka Valley	Le Roy to Gainesville.	Not in operation.
Olean and Salamanca	Salamanca to Olean.	Not in operation.
Poughkeepsie and Southwestern	Opposite Poughkeepsie to Liberty Corner.	In operation; consolidated with the Buffalo, New York and Philadelphia in 1883.
Pennsylvania, Slatintown and New England.	State Line, New Jersey to Pine Blad.	Not in operation.
Rome and Boonville	Rome to Boonville.	Abandoned. See R. R. Com's report, 1883.
Rockland Lake and Valley Cottage	Valley Cottage to Rockland lake.	Not in operation.
Saratoga Island Terminal	Edgewater to Rosaville.	Not in operation.
Steinway and Hunter's Point.	In Long Island City.	Not in operation.

Stillwater and Mechanicville.....	Stillwater to Mechanicville.....	In operation.
Sodus Bay and Southern.....	Sodus Point to Hall's Corner.....	In operation.
Syracuse, Ontario and New York.....	Syracuse to Earlville.....	In operation.
Syracuse, Phoenix and Ontario.....	Syracuse to Oswego.....	Not in operation.
United States and Canada.....	In the town of Fort Covington.....	Leased to Troy and Lansingburgh R. R. Co.; in operation.
Waterford and Cohoes.....	Waterford to Cohoes.....	
1884.		
Attica, Lockport and Lake Ontario.....	Attica to Youngstown.....	Not in operation.
Broadway (New York).....	In the city of New York.....	Not in operation.
Broadway, Lexington and Fifth Avenue.....	In the city of New York.....	Not in operation.
Broadway, Surface.....	In the city of New York.....	In operation.
Brooklyn, Elevated.....	In the city of Brooklyn.....	In operation.
Brooklyn and Jersey City Ferry.....	In the city of New York.....	Not in operation.
Brooklyn and Long Island Cable.....	Brooklyn to Jamaica.....	Not in operation.
Buffalo Harbor.....	In the city of Buffalo.....	Not in operation.
Cairo.....	Caskill to Cairo.....	Not in operation.
Canton and Waddington.....	Waddington to Canton.....	Not in operation.
Chambers Street.....	In the city of New York.....	Not in operation.
Chambers Street and Grand Street Ferry.....	In the city of New York.....	Not in operation.
City (Binghamton).....	In the city of Binghamton.....	Not in operation.
City Island.....	In the town of Pelham.....	In operation.
East and North River.....	In the city of New York.....	Not in operation.
Elmira, Cortland and Northern.....	In the city of New York.....	Not in operation.
Edie, Rochester and Lake Ontario Terminal.....	Elmira to Canastota.....	Not in operation.
Fifth Avenue.....	Rochester to Handford's Landing.....	Not in operation.
Fulton and Cortland Street Ferry Railway.....	In the city of New York.....	Not in operation.
Grand Central Transit Company.....	In the city of New York.....	Not in operation.
Harlem River.....	New York city to town of Rye.....	Not in operation.
Hobart Branch.....	East Chester to Mott Haven.....	Not in operation.
Lexington Avenue and Fourteenth Street.....	Stanford to Hobart.....	In operation.
Mahopac Falls.....	In the city of New York.....	Not in operation.
Massena Springs and Fort Covington.....	Mine of M. I. O. Co. to Mahopac Falls.....	Not in operation.
Nassau Cable.....	Fort Covington to Massena Springs.....	Not in operation.
New York Cable.....	In the city of New York.....	Not in operation.
New York Central, Hudson River and Fort Orange.....	In the city of Brooklyn.....	Not in operation.
New York City.....	Mill of F. O. P. Co. to Casleton.....	In operation.
New York, Fordham and Bronx River.....	In the city of New York.....	Not in operation.
New York, Rudland and Montreal.....	New York city to Bronxville.....	Not in operation.
Norwood and Montreal.....	Saguan to Hoesac.....	Not in operation.
Ottawa, Waddington and New York Railway and Bridge Company of New York.....	Norwood to Fort Covington.....	Not in operation.
Pittsburg, Lackawanna and North-Eastern.....	Canton to St. Lawrence river.....	Not in operation.
Squaw Island.....	In the town of Pelham.....	Not in operation.
Thirty-eighth and Thirty-ninth Street Crosstown.....	Perkinsville to Geneva.....	Not in operation.
Twenty-eighth Street.....	In the city of Buffalo.....	Not in operation.
Twenty-eighth and Thirtieth Streets.....	In the city of New York.....	Not in operation.
Union of City of Brooklyn.....	In the city of New York.....	Not in operation.

LIST OF COMPANIES formed under the Laws of this State — (Continued).

NAME OF ROAD.	Where located.	Remarks.
Union Terminal of City of Buffalo.....	In the city of Buffalo.....	Not in operation.
Westchester County.....	In the city of Yonkers.....	Not in operation.
Branchport and Penn Yan.....	Branchport to Penn Yan.....	Not in operation.
Brook Avenue.....	In the city of New York.....	Not in operation.
Brooklyn, Bushwick and Queens County.....	City of Brooklyn to village of Canarsie.....	Formerly North Second St. and Middle Village. In opera'n
Broome, Delancy and Spring Street.....	In the city of New York.....	Not in operation.
Calvary Cemetery, Greenpoint and Brooklyn.....	Long Island city to city of Brooklyn.....	Not in operation.
Canton and St. Lawrence Riv. R. and Bridge Co.	Village of Canton to northerly side of Goose Neck Island.....	Not in operation.
Catskill City.....	From Catskill Point to depot of N. Y. West Shore and Buffalo Railway.....	Not in operation.
Cedarhurst Railway.....	Rockaway to Cedarhurst.....	Not in operation.
Chautauqua Lake Railway.....	Jamestown, along the shores of Chautauqua lake.....	Not in operation.
Christopher Street and James Slip Ferry.....	In the city of New York.....	Not in operation.
Citizens Street R. R. Co. of City of Rochester.....	In the city of Rochester.....	Not in operation.
East River and Newtown.....	City of Brooklyn to Long Island city.....	Not in operation.
East River Tunnel.....	Long Island city to city of New York.....	Not in operation.
Elmira Transfer.....	In the city of Elmira.....	Not in operation.
Ferry Crosstown.....	In the city of New York.....	Not in operation.
Fifth Avenue.....	In the city of New York.....	Not in operation.
Fifty-ninth Street.....	In the city of New York.....	Not in operation.
Fulton and Oswego Falls Street.....	Village of Fulton to Village of Oswego Falls.....	Not in operation.
Fulton, Wall Street and Cortlandt Street Ferries.....	In the city of New York.....	Not in operation.
Glens Falls, Sandy Hill and Fort Edward.....	From Glens Falls to Fort Edward.....	Not in operation.
Glens Falls Street.....	Village of Glens Falls to town of Queensbury.....	Not in operation.
Greenpoint and Lorimer.....	In the city of Brooklyn.....	Not in operation.
Harlem and Riverdale Park.....	In the city and county of New York.....	Not in operation.
Hudson River and Boston Railway.....	From village of Anram, Columbia Co., to westerly line of State of Massachusetts.....	Not in operation.
Ithaca Street.....	In the city of Ithaca.....	Not in operation.
Laurel Hill, New Calvary and Lutheran Cemetery.....	In Long Island city.....	Not in operation.
Madison Avenue and Eighty-sixth Street.....	In the city of New York.....	Not in operation.
Morris Avenue.....	In the city of New York.....	Not in operation.
Mount Vernon and East Chester.....	Mount Vernon to East Chester creek.....	Not in operation.
Mount Vernon and Yonkers.....	In the county of Westchester.....	Not in operation.
New England and South-western.....	From State line of Connecticut to State line of New Jersey.....	Not in operation.
New Rochelle and Pelham.....	New Rochelle to Glen Island landing.....	Not in operation.

New Rochelle Street	New Pelham to East Chester bay.....	Not in operation.
New Rochelle Street Horse	Village of New Rochelle	Not in operation.
North and East River Railway	In the city of New York	Not in operation.
North New York Railway	In the city of New York	Not in operation.
One Hundred and Sixteenth Street and Fort Lee	In the city of New York	Not in operation.
Oneida	In the village of Oneida	Not in operation.
Ottawa, St. Lawrence and Schenectady Railway	County of St. Lawrence to county of Schenectady	Not in operation.
Oswego Street	In the city of Oswego	In operation.
Perth Amboy	From Totterville to Perth Amboy	Not in operation.
Richmond County	West New Brighton to village of Richmond	Not in operation.
Rockaway Electric	In county of Queens	Not in operation.
Rockland Lake	Town of Clarkstown	Not in operation.
Saratoga and St. Lawrence	Town of Bombay to village of Molra	Not in operation.
Southern Boulevard	In the city of New York	Not in operation.
Syracuse, Phoenix and Oswego	Liverpool, Onondago county, to town of Volney, Oswego county	Not in operation.
Thirty-first Street	In the city of New York	Partly constructed; operated by Rome, W. & O. R. R. Co.
Thirty-fourth Street Ferry and Eleventh Avenue	In the city of New York	Not in operation.
Twenty-eighth and Twenty-ninth Street Crosstown	In the city of New York	Not in operation.
Union Passenger Ry. and Transfer Co. of New York	In the city of New York	Not in operation.
Up-town Fifth Avenue	In the city of New York	Not in operation.
Warren Sugar Grove and Mayville	Sugar Grove, Penn., to village of Mayville, Chautauque county	Not in operation.



RAILROAD COMPANIES

FORMED IN EACH YEAR UNDER THE LAWS OF THIS STATE.

Number of Railroad Companies formed in each year, under the laws of this State, for the purpose of constructing or operating roads in this State.

Year.	No.	Year.	No.
1826.....	1	1856.....	5
1827.....	none	1857.....	9
1828.....	6	1858.....	3
1829.....	3	1859.....	15
1830.....	2	1860.....	20
1831.....	5	1861.....	12
1832.....	24	1862.....	8
1833.....	5	1863.....	24
1834.....	10	1864.....	32
1835.....	1	1865.....	24
1836.....	42	1866.....	43
1837.....	15	1867.....	33
1838.....	4	1868.....	43
1839.....	4	1869.....	40
1840.....	none	1870.....	48
1841.....	1	1871.....	59
1842.....	1	1872.....	61
1843.....	1	1873.....	37
1844.....	none	1874.....	33
1845.....	5	1875.....	18
1846.....	6	1876.....	22
1847.....	1	1877.....	34
1848.....	1	1878.....	27
1849.....	4	1879.....	33
1850.....	9	1880.....	65
1851.....	16	1881.....	62
1852.....	26	1882.....	47
1853.....	24	1883.....	39
1854.....	6	1884.....	43
1855.....	6	1885.....	53

ALPHABETICAL LIST

OF COMPANIES FORMED UNDER THE LAWS OF THIS STATE.

Name of Road.	When formed.	Name of Road.	When formed.
Addison and Northern Pennsylvania	1882	Avenue C	1869
Addison, Osceola and Gowanesque Valley	1878	Avon, Genesee and Mount Morris	1860
Adirondack	1839	Babylon	1871
Adirondack	1868	Batavia, Albion and Lake Ontario	1883
Adirondack Estate Railroad Company	1860	Batavia, Attica and Salamanca	1867
Adirondack Railway	1882	Batavia and Cheektowaga	1850
Albany	1861	Bath and Crooked Lake	1831
Albany, Bennington and Rutland	1850	Bath and Hammondsport	1872
Albany and Boston	1862	Bay Ridge and Sea Shore	1873
Albany and Boston	1864	Bay Ridge and Sea Side	1871
Albany and Kenwood	1868	Bay Shore	1866
Albany and Lackawanna	1866	Belmont and Buffalo	1871
Albany and New York	1866	Binghamton Central	1883
Albany and Northern	1861	Binghamton, Dushore and Williamsport	1872
Albany Railroad	1863	Binghamton and Port Dickinson	1868
Albany Railway	1863	Binghamton and Susquehanna	1833
Albany, Sandlake and Stephentown	1871	Binghamton and Williamsport	1882
Albany and Saratoga	1852	Black River	1836
Albany and Saratoga Springs	1853	Black River Company	1832
Albany and Schenectady	1847	Black River and Morristown	1870
Albany and Susquehanna	1851	Black River and St. Lawrence	1868
Albany and Vermont	1856	Black River and Utica	1853
Albany, Vermont and Canada	1859	Black River and Woodhull	1868
Albany and West Stockbridge	1836	Bleecker Street and Fulton Ferry	1865
Albion and Tonawanda	1832	Blossburgh and Corning	1864
Allegany Central	1881	Boonville and Constableville	1868
Allegany Central	1889	Boonville and Ontario	1868
Amsterdam, Chuotununda and Northern	1879	Boonville and Port Ontario	1873
Amsterdam Street	1873	Boonville and Turin	1866
Arcade and Genesee River	1872	Boston and Albany	1871
Astoria and Hunter's Point	1867	Boston, Albany and Schenectady	1877
Astoria and Hunter's Point	1877	Boston, Hartford and Erie	1864
Atlantic Avenue	1872	Boston, Hartford and Erie Extension	1864
Atlantic and Great Western	1859	Boston, Hartford and Erie Ferry Extension	1864
Atlantic and Great Western	1872	Boston and Henderson Harbor	1872
Atlantic and Great Western of New York	1872	Boston, Hoosac Tunnel and Albany	1878
Atlantic and Great Western Railroad Company of New York and Pennsylvania	1872	Boston, Hoosac Tunnel and Western	1877
Atlantic and Ontario	1871	Boston, Hoosac Tunnel and Western Railway	1881
Attica and Allegany Valley	1852	Boston, New York and Chicago	1874
Attica and Arcade	1870	Boston, New York and Western	1880
Attica and Arcade	1880	Boston, Rome and Oswego	1871
Attica and Buffalo	1836	Boston, Saratoga and Western	1870
Attica and Hornellsville	1845	Bowery Bay and Hunter's Point	1882
Attica, Lockport and Lake Ontario	1883	Bradford, Eldred and Cuba	1881
Attica and Sheldon	1832	Branchport and Penn Yan	1885
Auburn and Canal	1871	Breslau and Fire Island	1872
Auburn and Deposit Air Line	1872	Brewerton and Syracuse	1836
Auburn and Homer Midland	1871	Brighton (No. 1)	1880
Auburn and Owasco Lake	1880	Brighton (No. 2)	1880
Auburn and Owasco Lake	1869	Brighton Beach and New York	1880
Auburn and Port Byron	1836	Brighton Beach	1879
Auburn and Rochester	1834	Broadway and Bowery Bay	1883
Auburn and Syracuse	1872	Broadway (of Brooklyn)	1858
Auburn and Willow Brook	1832	Broadway (of New York)	1884
Aurora and Buffalo	1832	Broadway Central Underground	1880
		Broadway, Lexington and Fifth Avenue	1884
		Broadway and Rockaway Beach	1880

Name of Road.	When formed.	Name of Road.	When formed.
Broadway and Seventh Avenue	1864	Buffalo Creek Transfer	1861
Broadway Surface	1884	Buffalo Crosstown	1874
Broadway Underground	1880	Buffalo East Side Street	1870
Broadway Underground Connecting	1880	Buffalo and Erie	1882
Broadway and Yonkers Patent	1886	Buffalo and Erie	1887
Brook Avenue	1885	Buffalo Erie Basin	1870
Brooklyn, Bath and Coney Island	1862	Buffalo and Great Western	1868
Brooklyn, Bath and Coney Island	1879	Buffalo Harbor	1868
Brooklyn, Bushwick and Queens County	1885	Buffalo and Hinsdale	1866
Brooklyn Cable	1883	Buffalo and International	1869
Brooklyn and Canarsie	1865	Buffalo International Bridge	1871
Brooklyn Central	1869	Buffalo and Jamestown	1872
Brooklyn Central and Jamaica	1890	Buffalo and Lake Huron	1868
Brooklyn City	1863	Buffalo Lehigh	1861
Brooklyn City Elevated	1875	Buffalo and Lockport	1862
Brooklyn City Elevated	1879	Buffalo and New York	1861
Brooklyn City, Hunter's Point and Pros- pect Park	1868	Buffalo and New York City	1861
Brooklyn City and Newtown	1860	Buffalo, New York and Erie	1867
Brooklyn City and Ridgewood	1861	Buffalo, New York and Philadelphia	1871
Brooklyn City and Rockaway	1862	Buffalo and Niagara Falls	1864
Brooklyn and Coney Island	1876	Buffalo Niagara Slip	1877
Brooklyn and Coney Island Central	1877	Buffalo and Oil Creek Cross Cut	1865
Brooklyn, Coney Island and Rockaway	1878	Buffalo and Pittsburg	1868
Brooklyn Crosstown	1872	Buffalo, Pittsburg and St. Louis	1868
Brooklyn, East New York and Rock- away	1864	Buffalo, Pittsburg and Western	1860
Brooklyn Elevated	1864	Buffalo, Pittsburg and Western	1861
Brooklyn Elevated and Atlantic Beach	1879	Buffalo and Rochester	1860
Brooklyn Elevated Railway Construc- tion Company	1882	Buffalo, Rochester and Pittsburg	1861
Brooklyn Elevated Silent Safety	1874	Buffalo and Southwestern	1868
Brooklyn, Flatbush and Coney Island	1866	Buffalo and State Line	1860
Brooklyn, Flatbush and Coney Island	1869	Buffalo and Springville	1861
Brooklyn, Flatbush and Coney Island Railway	1877	Buffalo Street	1860
Brooklyn, Flatbush and Rockaway Beach	1879	Buffalo, Syracuse and Albany	1869
Brooklyn, Fort Hamilton, Bath and Coney Island	1836	Buffalo, Tonawanda and Niagara Falls	1868
Brooklyn, Fort Hamilton and Coney Is. land	1867	Buffalo and Washington	1865
Brooklyn and Jamaica	1831	Buffalo and Williamsville	1866
Brooklyn and Jamaica	1832	Buffalo and Williamsville	1870
Brooklyn and Jamaica	1866	Bushwick	1867
Brooklyn and Jersey City Ferry	1884	Cairo	1864
Brooklyn and Long Island Cable	1884	Calvary Cemetery, Greenport and Brook- lyn	1865
Brooklyn and Long Island City	1880	Canajoharie and Catskill	1860
Brooklyn and Long Island Trunk	1883	Canajoharie	1858
Brooklyn and Montauk	1890	Canandaigua and Bath	1848
Brooklyn, Middle Village and Jamaica	1866	Canandaigua and Corning	1852
Brooklyn, Prospect Park and Flatbush	1867	Canandaigua and Elmira	1862
Brooklyn, Prospect Park and Jamaica Bay	1869	Canandaigua and Niagara Falls	1861
Brooklyn and Queens County	1883	Canandaigua, Palmyra and Ontario	1862
Brooklyn and Rockaway	1867	Canandaigua Railway and Transporta- tion Company	1868
Brooklyn and Rockaway Beach	1864	Canandaigua and Syracuse	1863
Brooklyn, Rockaway and Coney Island	1881	Canarsie, Brooklyn and Winfield	1864
Brooklyn and Sea Shore	1871	Canarsie and Flatbush	1874
Brooklyn Steam Transit	1869	Canton and St. Lawrence River	1865
Brooklyn Steam Transit	1871	Canton and Waddington	1864
Brooklyn Underground	1881	Cassadaga and Erie	1866
Brooklyn, Winfield and Newtown	1870	Castleton and West Stockbridge	1864
Brooklyn and Winfield Railway	1869	Carthage and Adirondack	1863
Broome, Delancy and Spring Street	1885	Carthage, Watertown and Sackett's Harbor	1860
Buffalo and Allegany Valley	1863	Catskill City	1865
Buffalo, Aurora and Southeastern	1882	Catskill Horse	1874
Buffalo and Batavia	1838	Catskill and Ithaca	1868
Buffalo and Black Rock	1833	Catskill Mountain	1860
Buffalo, Bradford and Pittsburg	1859	Catskill and Schoharie Valley	1871
Buffalo Branch of the Erie Railway	1861	Cattaraugus	1868
Buffalo, Cayuga Valley and Pine Creek	1882	Cayuga Lake	1867
Buffalo, Chautauqua Lake and Pittsburg	1879	Cayuga Northern	1872
Buffalo City	1867	Cayuga Midland	1871
Buffalo City	1877	Cayuga Railway	1874
Buffalo, Cleveland and Chicago Railway	1881	Cayuga Southern	1870
Buffalo and Conhocton Valley	1850	Cayuga and Susquehanna	1843
Buffalo, Corning and New York	1852	Cazenovia and Canastota	1866
Buffalo, Corry and Pittsburg	1868	Cazenovia and Canastota	1872
Buffalo Creek	1869	Cazenovia, Canastota and De Ruyter	1873
Buffalo Creek Extension	1874	Cazenovia, Canastota and De Ruyter	1876
		Cazenovia and De Ruyter	1879
		Cedarhurst	1865
		Central City	1860
		Central Crosstown	1873

DATE WHEN COMPANIES FORMED.

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Name of Road.	When formed.	Name of Road.	When formed.
Central Elevated Railway.....	1869	Delhi and Hudson River.....	1862
Central of Long Island.....	1871	Delhi and Middletown.....	1871
Central Park, North and East River.....	1880	Division Avenue.....	1868
Central Park and Kings Bridge.....	1868	Dry Dock, East Broadway and Battery.....	1864
Central Railroad Extension.....	1873	Dunkirk, Allegheny Valley and Pitts- burg.....	1873
Central Saratoga.....	1878	Dunkirk and Chautauqua Lake.....	1886
Central of Staten Island.....	1870	Dunkirk, Chautauqua Lake and Pitts- burg.....	1879
Central Staten Island.....	1878	Dunkirk and Fredonia.....	1866
Central Tunnel.....	1881	Dunkirk and Junction.....	1879
Central Valley.....	1870	Dunkirk, Warren and Pittsburg.....	1867
Chambers Street.....	1877	Dunkirk, Warren and Pittsburg.....	1870
Chambers Street.....	1884	Dutchess.....	1832
Chambers Street Crosstown.....	1880	Dutchess.....	1836
Chambers Street and Grand Street Ferry.....	1884	Dutchess and Columbia.....	1866
Champlain and St. Lawrence.....	1851	East Brooklyn Railroad.....	1874
Charlotte Lake View.....	1875	East Brooklyn Railway.....	1873
Charlotte and Lake View.....	1881	East Brooklyn, Winfield and Newtown.....	1867
Chateaugay.....	1879	Eastern Branch of the Dutchess and Columbia.....	1866
Chautauqua County.....	1851	East Buffalo Terminal.....	1888
Chautauqua Lake.....	1874	Eastern Railroad Company of Long Island.....	1879
Chautauqua Lake.....	1885	East Genesee Street and Seward Avenue Railway.....	1881
Chautauqua Valley.....	1882	East New York and Jamaica.....	1860
Chemung.....	1845	East New York and Jamaica Bay.....	1865
Chemung and Ithaca.....	1837	East and North River.....	1861
Chenango Valley.....	1863	East and North River.....	1864
Cherry Valley, Sharon and Albany.....	1869	East River Bridge and Coney Island Transit.....	1881
Cherry Valley and Mohawk River.....	1864	East River and Connecticut Railway.....	1881
Cherry Valley and Spraker's Horse Power Railroad Company.....	1860	East River and Newtown.....	1885
Cherry Valley and Susquehanna.....	1886	East River Tunnel.....	1885
Christopher and Tenth Street.....	1873	East Side and Mt. Vernon Railway.....	1881
Christopher Street and James Slip Ferry.....	1885	East Side and New Rochelle Patent Rail- way.....	1866
Citizens' Street Railroad Company of Rochester.....	1885	East Side Railway.....	1868
City (Binghamton).....	1884	Elmira Avenue.....	1855
City Island.....	1884	Elmira, Canandaigua and Niagara Falls.....	1857
City Line and Canarsie.....	1869	Elmira Connecting.....	1862
City (Poughkeepsie).....	1878	Elmira, Cortland and Northern.....	1864
Clayton and Theresa.....	1871	Elmira and Horseheads.....	1871
Clinton Avenue.....	1864	Elmira, Jefferson and Canandaigua.....	1859
Clifton and South Clifton.....	1853	Elmira State Line.....	1872
Clove Branch.....	1869	Elmira Transfer.....	1865
Clyde and Sodus Bay.....	1853	Elmira and Williamsport.....	1859
Coeymans.....	1836	Elmira and Williamsport.....	1860
Cohoes and Waterford.....	1863	Erie and Black Rock.....	1862
Cohoes and Waterford.....	1867	Erie and Cattaraugus.....	1857
Cohoes and Waterford.....	1873	Erie and Central New York.....	1863
Cold Spring.....	1839	Erie and Genesee Valley.....	1868
Columbia Street and Erie Basin.....	1866	Erie International.....	1872
Concourse.....	1880	Erie and New England.....	1866
Conesus Lake.....	1882	Erie and New York City.....	1852
Coney Island Beach.....	1877	Erie and Niagara River.....	1863
Coney Island and Brooklyn.....	1860	Erie Railway.....	1861
Coney Island Centre and Safety Rails Elevated.....	1880	Erie, Rochester and Lake Ontario Ter- minal.....	1894
Coney Island and East River.....	1876	Far Rockaway Beach.....	1881
Coney Island Elevated.....	1880	Far Rockaway Branch.....	1868
Coney Island High and Low-Water Mark.....	1877	Ferry Crosstown.....	1885
Coney Island and Rockaway.....	1878	Fifth Avenue.....	1884
Coney Island Sea View Elevated.....	1880	Fifth Avenue.....	1885
Coney Island, Sheepshead Bay and Ocean Avenue.....	1880	Fifth Ward.....	1868
Coney Island Surface.....	1877	Fifty-ninth Street.....	1885
Coney Island Transit.....	1880	First Avenue and Jersey Ferries.....	1864
Connecting Terminal.....	1881	Fish House and Amsterdam.....	1862
Cooperstown and Cherry Valley.....	1837	Fishkill.....	1868
Cooperstown and Susquehanna Valley.....	1865	Fishkill and Newburgh.....	1876
Copenhagen and Turin.....	1866	Flatbush, Coney Island and Canarsie.....	1864
Corning and Blossburgh.....	1851	Flatbush, Coney Island Park and Con- course.....	1876
Corning, Cowanesque and Antrim.....	1873	Flushing.....	1852
Corning and Olean.....	1853	Flushing.....	1863
Corning and Seneca Lake.....	1864	Flushing and College Point.....	1866
Cornwall Branch.....	1868	Flushing, North Shore and Central.....	1874
Cornwall Suspension Bridge.....	1868	Flushing and North Side.....	1868
Cortland and Homer.....	1868		
Court Street and River Side.....	1863		
Coxsackie and Schoenectady.....	1837		
Cypress Hill Railway.....	1872		
Danville and Rochester.....	1852		
Delaware.....	1896		

Name of Road.	When formed.	Name of Road.	When formed.
Flushing Village	1871	Harlem Bridge, Morrisania and Ardenham	1868
Flushing and Woodside	1864	Harlem Extension	1870
Fonda and Fultonville	1875	Harlem River	1868
Fonda, Johnstown and Gloversville	1867	Harlem River and High Bridge	1868
Forestport	1868	Harlem River and Port Chester	1867
Fort Ann and Mount Hope	1871	Harlem River and Port Chester Rapid Transit	1869
Fort Edward, Glens Falls and Sandy Hill	1863	Harlem River and Tarrytown	1861
Fort Hamilton and Coney Island	1861	Harlem and Riverdale Park	1868
Fort Pond Bay	1863	Hayt's Corners, Ovid and Willard	1862
Forty-second Street Crosstown	1877	Hempstead and Jamaica	1865
Forty-second Street and Grand Street Ferry	1863	Hempstead and Smithtown	1873
Forty-second Street, Manhattanville and St. Nicholas Avenue	1873	Hempstead and Rockaway	1873
Frankfort and Ilion	1871	Herkimer and Mohawk Street	1871
Fredonia and Van Buren	1866	Herkimer, Newport and Poland Narrow Gauge	1869
Friendship	1861	Herkimer and Trenton	1868
Fulton	1864	Hicksville and Cold Spring Branch	1863
Fulton and Cortland Street Ferry	1864	Hicksville and Huntington	1865
Fulton and Cortland Street Ferry Rail-way	1864	High Bridge	1868
Fulton Ferry and Canarsie Bay	1868	High Bridge Elevated Incline	1868
Fulton Ferry and Prospect Park	1867	Highland Junction	1861
Fulton Ferry and Tenth Avenue	1865	Highland Trans-Hudson	1861
Fulton and Oswego Falls Street	1865	Hobart Branch	1861
Fulton, Wall Street and Cortland Street Ferries	1865	Honeoye	1868
Gallupville	1869	Hoosac Tunnel and Saratoga Railway	1861
Garnerville	1875	Hornellsville and Almond Street	1873
Genesee and Hudson	1862	Hornellsville and Cohocton Valley	1868
Genesee Valley	1866	Horseheads and Elmira Avenue	1871
Genesee Valley Canal	1860	Houston, West Street and Pavonia Ferry	1874
Genesee Valley Junction	1862	Hudson Avenue	1867
Genesee Valley Terminal	1862	Hudson and Berkshire	1868
Genesee and Water Street	1866	Hudson and Boston	1865
Genesee	1848	Hudson and Delaware	1869
Genesee and Pittsford	1866	Hudson and Kinderhook	1871
Geneva and Canandaigua	1868	Hudson and Mohawk	1869
Geneva and Cattaraugus	1867	Hudson River	1846
Geneva and Hornellsville	1876	Hudson River and Boston	1865
Geneva, Hornellsville and Pine Creek	1876	Hudson River West Shore	1867
Geneva and Ithaca	1870	Hudson and St. Lawrence	1872
Geneva, Ithaca and Athens	1874	Hudson, Suspension Bridge and New England	1870
Geneva, Ithaca and Sayre	1877	Hudson Tunnel	1872
Geneva and Lyons	1878	Hudson Tunnel	1869
Geneva and Southwestern	1871	Hudson Tunnel of New York	1860
Geneva, Southwestern and Hornellsville	1873	Hudson Tunnel Railway	1861
Gilbert Elevated	1873	Hudson Valley	1870
Gilboa	1869	Hudson and West Shore	1860
Glendale and East River	1874	Hunter's Point and Flushing	1873
Glens Falls	1867	Hunter's Point, Ravenswood and Astoria	1864
Glens Falls, Sandy Hill and Fort Edward	1865	Hunter's Point and Rockaway Beach	1867
Glens Falls Street	1865	Hunter's Point and South Side	1870
Gloversville and Kingsboro	1874	Ilion Street	1873
Gloversville, Mayfield and Northville	1868	International	1861
Gloversville and Northville	1873	Iron Hill	1873
Goshen and Albany	1843	Island	1868
Goshen and Deckertown	1868	Ithaca and Athens	1870
Goshen and New Jersey	1867	Ithaca and Auburn	1868
Grand Street	1859	Ithaca, Auburn and Western	1873
Grand Street Central Transit	1864	Ithaca and Cortland	1869
Grand Street Ferry and Middle Village	1869	Ithaca and Geneva	1872
Grand Street and Maspeth	1859	Ithaca and Oswego	1868
Grand Street and Newtown	1860	Ithaca and Port Renwick	1864
Grand Street, Pros. Park and Flatbush	1870	Ithaca Street	1862
Great Ausable	1828	Ithaca and Tonawanda	1866
Great Valley and Bradford	1861	Jackson and Steinway Avenue Railroad Company of Long Island	1879
Greene	1838	Jamaica and Brooklyn Road	1860
Greene	1870	Jamaica and Middle Village	1866
Greenpoint and Calvary	1865	Jamaica, Woodhaven and Brooklyn	1871
Greenpoint and Lorimer Street	1865	Jamestown	1872
Greenpoint, Pros. Park and Greenwood	1866	Jamestown Street	1862
Greenpoint and Williamsburgh	1864	Janeville	1866
Greenwich and Johnsonville	1869	Jerome Park	1860
Greenwich and Johnsonville	1874	Jerome Park Branch	1873
Greenwich and Johnsonville Railway	1879	Jersey City and Albany	1873
Greenwood and Coney Island	1872	Jersey City and Albany Railway	1879
Hamilton Avenue and Prospect Park	1869	Jersey City and Albany Railway Company of the States of New York and New Jersey	1879
Hamilton Avenue, Prospect Park and Flatbush	1868		
Hamilton Ferry and Canarsie	1870		

Name of Road.	When formed.	Name of Road.	When formed.
Jersey Ferries and First Avenue.....	1865	Medina and Darien.....	1884
Johnstown.....	1886	Medina and Lake Ontario.....	1886
Johnstown, Gloversville and Kingsboro.....	1874	Metropolitan Elevated.....	1878
Jordan and Skaneateles.....	1887	Metropolitan Railroad.....	1864
Junction.....	1870	Metropolitan Railway.....	1864
Junction Railway.....	1865	Metropolitan Transit.....	1867
Kaaterskill.....	1882	Metropolitan Transit.....	1872
Keeseville and Montreal.....	1869	Middleburgh and Schoharie.....	1867
King's Bridge, High Bridge and Forty-second Street.....	1864	Middle Central.....	1878
King's Bridge and Yonkers.....	1876	Middletown and Crawford.....	1868
Kings County.....	1878	Middletown Horse.....	1870
Kings County Central.....	1876	Middletown, Unionville and Water Gap.....	1866
Kings County Elevated.....	1879	Middle Village.....	1867
Kingston City.....	1879	Midwout, Amersfort and Coney Island.....	1877
Kingston and Rondout.....	1865	Mohawk and Hudson.....	1826
Kingston Turnpike and Railroad Company.....	1836	Mohawk and Ilion (Horse).....	1870
Kingston, Warwick and Easton.....	1883	Mohawk and Lake Erie Railway.....	1881
Lackawanna and Pittsburg.....	1882	Mohawk and Moose River.....	1887
Lake Champlain and Moriah.....	1868	Mohawk and St. Lawrence Railroad and Navigation Company.....	1837
Lake Champlain and Ogdensburg.....	1882	Mohawk Valley.....	1861
Lake Ontario.....	1874	Mohawk Valley and Plisco.....	1868
Lake Ontario and Auburn.....	1866	Monroe and Greenwood Lake.....	1877
Lake Ontario, Auburn and New York.....	1852	Montgomery and Erie.....	1866
Lake Ontario and Hudson River.....	1857	Monticello and Port Jervis.....	1868
Lake Ontario Shore.....	1888	Montreal and Plattsburgh.....	1868
Lake Ontario Southern.....	1880	Morris Avenue.....	1885
Lake and River Improvement and Railroad Land Company of the New York Wilderness.....	1865	Mount Prospect and Carroll Street.....	1873
Lake Shore and Michigan Southern.....	1869	Mount Vernon and Eastchester.....	1885
Lansingburgh and Cohoes.....	1880	Mount Vernon and Yonkers.....	1885
Lansingburgh and Troy.....	1853	Myrtle Avenue Branch.....	1881
Lansingburgh and Troy.....	1872	Nanuet and New City.....	1871
Laurel Hill, New Calvary and Lutheran Cemetery.....	1885	Nassau.....	1865
Lawrenceville and Erie.....	1874	Nassau Cable.....	1884
Lebanon Springs.....	1882	Newark.....	1869
Lehigh and Hudson River.....	1882	New Brighton and Onondaga Valley.....	1869
Lehigh Valley.....	1882	Newburgh, Dutchess and Connecticut.....	1877
Lehigh Valley.....	1882	Newburgh Horse.....	1868
Lewiston.....	1886	Newburgh Horse.....	1883
Lexington Avenue and Fourteenth Street.....	1884	Newburgh and Kingston.....	1869
Little Falls, Dolgeville and Plisco Lake.....	1883	Newburgh and Middletown.....	1866
Liverpool and Syracuse.....	1866	Newburgh and Midland.....	1870
Lockport and Batavia.....	1866	Newburgh and New York Railroad.....	1864
Lockport and Buffalo.....	1871	Newburgh and New York Railway.....	1865
Lockport and Niagara Falls.....	1864	Newburgh and Walkill Valley.....	1868
Lockport and Youngstown.....	1886	New England, New York and Pennsylvania.....	1878
Locust Grove and Brighton Beach.....	1879	New England, Lacka. and Pittsburg.....	1888
Long Beach Marine Railway.....	1881	New England and South Western.....	1886
Long Island.....	1834	New Jersey and Hudson River.....	1861
Long Island City and Calvary Cemetery.....	1871	New Jersey and New England.....	1873
Long Island City and Flushing.....	1881	New Jersey and New York.....	1876
Long Island City and Manhattan Beach.....	1883	New Rochelle and Pelham.....	1885
Long Island City and Maspeth.....	1873	New Rochelle Street Horse Railway.....	1885
Long Island City and Newton.....	1883	New Rochelle Street Horse Railroad.....	1871
Long Island City Shore.....	1874	Newtown and Flushing.....	1874
Madison Avenue and Eighty-sixth Street.....	1885	New Williamsburgh and Flatbush.....	1860
Madison Avenue Underground.....	1880	New York.....	1882
Madison County.....	1829	New York and Albany.....	1867
Mahopae Falls.....	1884	New York and Albany.....	1880
Main and Ohio Street.....	1859	New York and Atlantic.....	1880
Malden.....	1837	New York and Atlantic Coast.....	1878
Malden.....	1863	New York, Bay Ridge and Jamaica.....	1869
Malden and Canada.....	1883	New York and Boston.....	1860
Manhattan Beach Extension.....	1883	New York, Boston and Albany.....	1860
Manhattan Beach and West Brighton.....	1879	New York, Boston, Albany and Schenectady.....	1880
Manhattan Railroad.....	1879	New York and Boston Extension.....	1872
Manhattan Railway.....	1854	New York, Boston and Montreal.....	1873
Manhattan Railway.....	1867	New York and Boston Inland.....	1882
Manheim and Salisbury.....	1834	New York, Boston and Northern.....	1873
Marginal.....	1877	New York and Brighton Beach.....	1879
Marine.....	1878	New York, Brooklyn Elevated.....	1880
Maspeth Railroad and Bridge Company.....	1868	New York and Brooklyn Marine.....	1880
Massena Springs and Fort Covington.....	1884	New York, Brooklyn and Rockaway.....	1881
Mayville Extension.....	1881	New York, Brooklyn and Sea Beach.....	1878
Mayville and Portland.....	1838	New York, Brooklyn and Sea Shore.....	1877
Mechanicville and Fort Edward.....	1880	New York and Brighton Beach.....	1878
		New York Cable.....	1884
		New York and Canada.....	1873
		New York Central.....	1868

Name of Road.	When formed.	Name of Road.	When formed.
New York Central and Hudson River ..	1870	New York, West Shore and Buffalo Rail- way ..	1881
New York Central, Hudson River and Fort Orange ..	1884	New York, West Shore and Chicago ..	1876
New York Central Niagara River ..	1877	New York and White Plains ..	1871
New York, Chicago and St. Louis Rail- way ..	1881	New York, Woodhaven and Rockaway ..	1877
New York City ..	1884	New York and Yonkers ..	1859
New York City Central Underground ..	1888	Niagara Bridge and Canandaigua ..	1898
New York City Croastown ..	1863	Niagara Falls ..	1871
New York City and Northern ..	1878	Niagara Falls Branch ..	1876
New York City Rapid Transit ..	1872	Niagara Falls, Buffalo and New York ..	1882
New York and Coney Island ..	1879	Niagara Falls and Lake Ontario ..	1882
New York, Coney Island and Rockaway ..	1879	Niagara Falls and Lewiston ..	1849
New York and Connecticut ..	1846	Niagara Falls and Suspension Bridge ..	1883
New York, Connecticut and Eastern of New York ..	1880	Niagara River ..	1872
New York and Croton River ..	1871	Niagara River and New York Air Line ..	1879
New York and Croton River Extension ..	1872	Niagara Street ..	1859
New York, Danbury and Boston ..	1883	Ninth Avenue ..	1859
New York and East River ..	1882	North and East Greenbush ..	1882
New York Elevated ..	1872	North and East River ..	1885
New York and Erie ..	1858	Northern ..	1845
New York and Flushing ..	1869	Northern Adirondack ..	1883
New York, Fordham and Bronx River ..	1883	Northern Air Line ..	1880
New York, Fort Hamilton and Coney Island ..	1880	Northern Central New York ..	1867
New York, Greenwood and Coney Island ..	1879	Northern Extension of Rochester, Nunda and Pittsburg ..	1872
New York and Harlem ..	1831	Northern New York ..	1879
New York and Hempstead ..	1871	Northern Railroad Company of Long Island ..	1861
New York and Hempstead Plains ..	1870	Northern Slackwater and Railroad Co ..	1846
New York and Highland Suspension Bridge Company ..	1869	North New York ..	1886
New York, Housatonic and Northern ..	1864	North Park ..	1873
New York and Jamaica ..	1859	North River ..	1869
New York, Kingston and Syracuse ..	1872	North River ..	1861
New York, Lackawanna and Western ..	1880	North River and Wall Street Ferry ..	1868
New York and Lake Mahopac ..	1861	North Second Street and Middle Village ..	1871
New York, Lake Erie and Western ..	1878	North Side of Long Island ..	1867
New York and Long Beach ..	1880	North Side (Staten Island) ..	1871
New York, Long Island and Rockaway ..	1879	North Shore of Long Island ..	1870
New York and Mahopac ..	1871	North Shore and Port Washington ..	1874
New York and Manhattan Beach ..	1877	Norwood and Montreal ..	1864
New York and Newburgh ..	1854	Norstrand Avenue and Park ..	1870
New York and New England ..	1873	Nyack and Northern ..	1869
New York and New Jersey ..	1873	Oak Hill Iron ..	1830
New York and New Jersey Tunnel ..	1883	Oatka Valley ..	1828
New York and New Rochelle ..	1862	Ocean Bay and Sheephead Bay Railway ..	1881
New York Northern ..	1863	Ocean Palace Elevated ..	1877
New York Northern ..	1880	Ogdensburgh ..	1857
New York Northern ..	1883	Ogdensburgh, Clayton and Rome ..	1868
New York Northern Central ..	1865	Ogdensburgh and Lake Champlain ..	1864
New York and North Salem ..	1871	Ogdensburgh and Morristown ..	1871
New York, Ontario and Western ..	1880	Ogdensburgh and Morristown ..	1877
New York and Oswego Midland ..	1866	Olean ..	1881
New York, Pennsylvania and Ohio ..	1880	Olean, Bradford and Warren ..	1876
New York, Pennsylvania and Western ..	1881	Olean Street ..	1860
New York Quick Transit ..	1874	Olean and Salamanca ..	1869
New York Railway ..	1871	Oneida ..	1885
New York, Richfield Springs and Coop- erstown ..	1882	Oneida Horse ..	1874
New York and Rockaway ..	1871	Oneida Valley ..	1864
New York and Rockaway Beach ..	1876	One Hundred and Sixteenth Street and Fort Lee Ferry ..	1865
New York, Rockaway and Long Island ..	1880	One Hundred and Twenty-fifth Street ..	1871
New York, Rutland and Montreal ..	1883	Oneonta and Earlville ..	1872
New York and Sea Beach Railroad ..	1876	Ontario Southern ..	1876
New York and Sea Beach Railway ..	1883	Orange County ..	1877
New York, Sea Beach and Coney Island ..	1878	Oswego, Binghamton and New York ..	1865
New York and South Side ..	1874	Oswego City (Street) ..	1870
New York State ..	1873	Oswego City and Town ..	1872
New York and Troy ..	1863	Oswego and Cortland ..	1886
New York Tunnel ..	1880	Oswego Northern and Eastern ..	1868
New York Underground ..	1880	Oswego and Rome ..	1863
New York Underground Extension ..	1874	Oswego Street ..	1865
New York, Utica and Ogdensburgh ..	1870	Oswego and Syracuse ..	1880
New York, Westchester and Boston ..	1872	Oswego and Troy ..	1864
New York and Westchester County ..	1859	Oswego and Utica ..	1886
New York, Westchester and Putnam ..	1877	Otsego ..	1863
New York and Western ..	1853	Ottawa, St. Lawrence and Schenectady ..	1865
New York Western Midland ..	1872	Ottawa, Waddington and New York Railway and Bridge Company of New York ..	1864
New York, West Shore and Buffalo ..	1880		

DATE WHEN COMPANIES FORMED.

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Name of Road.	When formed.	Name of Road.	When formed.
Owasco River Railway	1881	Rochester and Southern	1882
Park Avenue	1870	Rochester and Southern	1881
Park Avenue	1888	Rochester and State Line	1870
Pelham Park	1884	Rochester and Syracuse	1880
Pelham and Port Chester	1878	Rochester and Windsor Beach Railway	1881
Penfield and Canal	1887	Rockaway Beach and Far Rockaway Marine	1879
Pennsylvania and Erie Coal and Railway Company	1875	Rockaway Beach Railroad	1871
Pennsylvania, Slatington and New Eng- land	1882	Rockaway Beach Transit	1881
Pennsylvania and Sodus Bay	1870	Rockaway and Brooklyn	1883
Penn Yan and Geneva	1875	Rockaway Electric	1885
Penn Yan and New York	1877	Rockaway Elevated	1878
People's	1880	Rockaway Railway	1871
Perry	1883	Rockaway Surf	1880
Perth Amboy	1885	Rockland Central	1870
Piermont and Nyack	1884	Rockland Central Extension	1873
Piermont West Shore	1887	Rockland Lake	1885
Pine Plains and Albany	1873	Rockland Lake and Valley Cottage	1882
Pine Plains and Rhinebeck	1873	Rome and Clintonville	1883
Pittsburg, Lackawanna and North Eastern	1883	Rome and Clinton	1880
Pittsburg, Titusville and Buffalo	1880	Rome and Port Ontario	1837
Pittsburg and Montreal	1880	Rome Street	1874
Pittsburg and Rouse's Point	1881	Rome, Watertown and Ogdensburg	1880
Portage and Cuba Low Grade	1882	Rondout and Kingston	1883
Port Byron and Auburn	1880	Rondout and Oswego	1886
Port Chester and Tarrytown	1888	Rondout and Port Jervis Railroad	1885
Port Dickinson and Chenango River	1881	Roslyn and Huntington	1874
Port Jervis and Monticello	1875	Rutland and Whitehall	1886
Port Morris and Westchester	1881	Rye Lake	1874
Potdam and Watertown	1882	Rye and Westchester	1871
Potdam and Montreal	1881	Sacandaga Valley	1871
Poughkeepsie City	1886	Sackett's Harbor and Ellsburgh	1881
Poughkeepsie and Eastern	1886	Sackett's Harbor, Rome and New York	1880
Poughkeepsie Grand Junction	1879	Sackett's Harbor and Saratoga	1882
Poughkeepsie and Grand Junction	1879	Sackett's Harbor and Watertown	1885
Poughkeepsie, Hartford and Boston	1875	Sackett's Street	1886
Poughkeepsie and Southwestern	1883	St. Lawrence Valley	1873
Prospect Park and Clarkson Street	1878	Salamanca, Bradford and Allegany River	1881
Prospect Park and Coney Island	1887	Salamanca and Warren	1881
Prospect Park and Coney Island	1875	Salina and Port Watson	1889
Prospect Park and Flatbush	1878	Saratoga and Fort Edward	1882
Prospect Park and Sea Side	1879	Saratoga and Hudson River	1884
Putnam and Dutchess	1871	Saratoga Lake	1880
Queens County	1871	Saratoga and Montgomery	1886
Queens Railway	1872	Saratoga and Mt. McGregor	1883
Rensselaerville and Berne	1886	Saratoga, Mt. McGregor and Lake George	1882
Rensselaer and Saratoga	1883	Saratoga and Schenectady	1881
Rhinebeck and Connecticut	1870	Saratoga, Schuylerville and Hoosac Tun- nel	1870
Richfield Springs and Cherry Valley	1882	Saratoga Springs and Schuylerville	1883
Richfield Springs and Otsego Lake	1884	Saratoga and St. Lawrence	1885
Richmond County	1885	Saratoga and Washington	1884
Rochester	1883	Saratoga and Whitehall	1885
Rochester and Canal	1881	Schenectady, Albany and North Adams	1888
Rochester and Charlotte	1886	Schenectady and Catskill	1846
Rochester and Charlotte	1881	Schenectady and Catskill	1888
Rochester and Charlotte Boulevard	1873	Schenectady City	1873
Rochester City and Brighton	1882	Schenectady and Duaneburgh	1873
Rochester and Genesee Valley	1881	Schenectady and Mechanicville	1887
Rochester and Genesee Valley Canal	1879	Schenectady and Ogdensburg	1874
Rochester, Hornellsville and Pine Creek	1872	Schenectady and Ogdensburg Narrow Gauge	1888
Rochester and Ironduquilt	1878	Schenectady and Susquehanna	1846
Rochester and Lake Ontario	1853	Schenectady and Susquehanna	1880
Rochester and Lake Ontario	1879	Schenectady and Susquehanna	1880
Rochester, Lake Side and Braddock's Bay	1881	Schenectady and Troy	1836
Rochester and Lockport	1887	Schenectady and Utica Railway	1885
Rochester, Lockport and Niagara Falls	1880	Schoharie and Otsego	1839
Rochester, New York and Pennsylvania	1880	Schoharie Street	1872
Rochester, New York and Pennsylvania	1881	Schoharie Valley	1885
Rochester, Nunda and Pennsylvania	1870	Schoharie Valley	1874
Rochester, Nunda and Pennsylvania	1872	Schoharie Valley Railway	1880
Rochester, Nunda and Pennsylvania Ex- tension	1873	Schuylerville and Fort Edward	1870
Rochester, Nunda and Pittsburg	1877	Schuylerville and Moreau	1870
Rochester and Ontario Belt	1882	Schuylerville and Upper Hudson	1880
Rochester and Pine Creek	1870	Schuylerville and Upper Hudson	1873
Rochester and Pittsburg	1883	Scottsville and Canandaigua	1886
Rochester and Pittsburg	1881	Scottsville and Le Roy	1884
Rochester and Pittsburg	1883	Sea Breeze Avenue	1881
		Sea Side Elevated	1880

Nome of Road.	When formed.	Name of Road.	When formed.
Sea Side Transit.....	1880	Syracuse, Phoenix and Oswego.....	1885
Sea View of Coney Island.....	1880	Syracuse and Rochester Direct.....	1880
Second Avenue.....	1883	Syracuse and Southern.....	1884
Sedge Bank.....	1876	Syracuse and Southwestern.....	1880
Seneca Falls and Waterloo.....	1871	Syracuse and Southwestern.....	1877
Seneca Lake Branch.....	1888	Syracuse Stone.....	1888
Sharon and Root.....	1838	Syracuse and Utica.....	1888
Sheepshead Bay and Coney Island.....	1877	Syracuse Utica Direct.....	1888
Sheepshead Bay and Sea Shore.....	1885	Tenth Avenue and Grand Street.....	1880
Silver Lake.....	1889	Third Avenue.....	1882
Silver Lake.....	1877	Third Avenue and Fordham.....	1881
Sixth Avenue.....	1882	Thirty-eighth and Thirty-ninth Street	
Skaneateles.....	1886	Crosstown.....	1884
Skaneateles.....	1886	Thirty-first Street.....	1885
Skaneateles and Jordan.....	1841	Thirty-fourth Street.....	1884
Smithtown and Port Jefferson.....	1870	Thirty-fourth Street Ferry and Eleventh	
Sodus Bay and Corning.....	1872	Avenue.....	1885
Sodus Bay, Corning and New York.....	1870	Thirty-second Street.....	1889
Sodus Bay and Southern.....	1883	Tioga and Erie.....	1888
Sodus Point and Southern.....	1882	Tioga and Savonia.....	1873
South Brooklyn.....	1879	Tonawanda.....	1882
South Brooklyn and Bergen Street.....	1883	Tonawanda, Genesee Valley and Pine	
South Brooklyn Central.....	1877	Creek.....	1888
South Brooklyn and Park.....	1870	Tonawanda Valley.....	1880
South Cairo and East Durham.....	1881	Tonawanda Valley and Cuba.....	1881
Southern Boulevard.....	1885	Tonawanda Valley and Cuba.....	1881
Southern Central.....	1886	Tonawanda Valley Extension.....	1881
Southern Hempstead Branch.....	1875	Tonawanda, Wisconsin and Genesee Valley	
Southern of Long Island.....	1874	Transit.....	1872
Southern Westchester.....	1871	Trenton and Sackett's Harbor.....	1887
South Ferry.....	1874	Troy and Albion.....	1888
South Ferry and Prospect Park.....	1874	Troy and Bennington.....	1881
South Ferry and Sea Side Direct Transit	1881	Troy and Boston.....	1889
Southfield Branch.....	1888	Troy and Chatham.....	1882
South Side Connection.....	1888	Troy City.....	1887
South Side of Long Island.....	1881	Troy and Cohoes.....	1888
Spears Quick Transit.....	1879	Troy and Greenbush.....	1845
Springville and Sardonia.....	1878	Troy and Lansingburgh.....	1880
Spruyn Duyn and Port Morris.....	1880	Troy and Rutland.....	1880
Squaw Island.....	1884	Troy and Saratoga.....	1871
State Line and Eastern.....	1879	Troy and Stockbridge.....	1880
Staten Island.....	1886	Troy and Susquehanna.....	1871
Staten Island.....	1888	Troy Turnpike and Railroad.....	1881
Staten Island.....	1878	Troy Union.....	1882
Staten Island Central.....	1871	Troy and Utica.....	1882
Staten Island Horse.....	1886	Tunnel Extension.....	1884
Staten Island North and South Shore.....	1881	Twenty-eighth and Thirtieth Street.....	
Staten Island Rapid Transit.....	1880	Twenty-eighth and Twenty-ninth Street	
Staten Island Shore.....	1884	Crosstown.....	1886
Staten Island Shore.....	1882	Twenty-third Street.....	1882
Staten Island Terminal.....	1883	Twenty-third Street.....	1887
Steinway Avenue and Bowery Bay.....	1883	Tyrone and Geneva.....	1887
Steinway and Hunter's Point.....	1883	Ulster County.....	1880
Sterling Mountain.....	1884	Ulster and Delaware.....	1873
Stillwater and Mechanicville Street.....	1888	Unadilla and Schoharie.....	1880
Stony Clove and Catskill Mountain.....	1881	Union.....	1881
Suspension Bridge and Erie Junction.....	1889	Union (Buffalo).....	1880
Syracuse and Binghamton.....	1881	Union Passenger Railway and Transpor-	
Syracuse, Binghamton and New York.....	1887	tation Company of New York.....	1885
Syracuse Branch, New York, Utica and		Union Pneumatic Railway.....	1887
Ogdensburgh.....	1871	Union Railroad Company.....	1887
Syracuse and Chenango.....	1878	Union of the City of Brooklyn.....	1880
Syracuse and Chenango Valley.....	1888	Union (Syracuse).....	1880
Syracuse, Chenango and New York.....	1877	Union and Syracuse Straight Line.....	1888
Syracuse Connecting Railway.....	1886	Union Terminal of the City of Buffalo.....	1884
Syracuse, Cortland and Binghamton.....	1886	Union Village and Johnsville.....	1887
Syracuse, Fayetteville and Manlius.....	1887	Union (of Westchester).....	1880
Syracuse and Geddes.....	1883	United States and Canada.....	1883
Syracuse, Geneva and Corning.....	1875	United States Harvey-Way Construc-	
Syracuse Junction.....	1878	tion Company.....	1880
Syracuse Mineral Springs.....	1887	Upper Hudson.....	1872
Syracuse Northern.....	1888	Uptown Fifth Avenue.....	1886
Syracuse and Northern.....	1875	Utica and Binghamton.....	1883
Syracuse and Northwestern.....	1889	Utica and Black River.....	1881
Syracuse and Northwestern.....	1874	Utica, Chenango and Cortland.....	1870
Syracuse and Onondaga.....	1886	Utica, Chenango and Susquehanna Valley	
Syracuse and Onondaga.....	1888	Utica City.....	1880
Syracuse and Ontario.....	1882	Utica, Clinton and Binghamton.....	1888
Syracuse, Ontario and New York.....	1883	Utica and Deerfield Street.....	1871
Syracuse, Phoenix and Ontario.....	1888	Utica and Fairground.....	1878
Syracuse, Phoenix and Oswego.....	1872	Utica, Georgetown and Elmira.....	1870

Name of Road.	When formed.	Name of Road.	When formed.
Utica, Horseheads and Elmira	1870	Waverly and State Line.....	1867
Utica and Ilion Narrow Gauge.....	1877	Wellsville, Bolivar and Eldred	1881
Utica, Ithaca and Elmira	1872	Wellsville, Coudersport and Pine Creek	1883
Utica, Ithaca and Elmira Railway Com- pany	1873	Wellsville and Fillmore	1882
Utica and Mohawk.....	1874	Wellsville, Honeoye and Ceres	1882
Utica and Mohawk (Street).....	1889	Westchester	1863
Utica and Schenectady	1833	Westchester County.....	1856
Utica and Susquehanna.....	1832	Westchester County.....	1878
Utica and Syracuse Air Line.....	1880	Westchester County.....	1884
Utica and Syracuse Railway.....	1885	Westchester County and New York City	1880
Utica and Waterville	1884	Westchester Railway	1881
Utica and Waterville	1867	West End and Glenwood.....	1876
Valley.....	1869	Westport and Kingdom	1868
Van Brunt Street and Erie Basin	1861	West Shore.....	1863
Walkkill Valley	1877	West Shore Hudson River.....	1868
Walkkill Valley Railway	1868	West Shore and International Bridge	1892
Warren County	1832	West Side	1854
Warren, Sugar Grove and Mayville.....	1885	West Side Elevated Patent Railway	1868
Warsaw and Le Roy.....	1864	West Side and Yonkers Patent.....	1866
Warwick.....	1837	West Troy and Green Island	1871
Warwick Valley.....	1880	Whitehall and Plattsburgh.....	1853
Washington County Central.....	1855	Whitehall and Plattsburgh.....	1866
Washington Street and State Asylum ..	1872	Whitehall and Rutland.....	1833
Water and Clinton Street.....	1873	Whitestone and Westchester	1872
Waterford and Cohoes.....	1863	Williamsburgh and Coney Island.....	1864
Waterford and Cohoes.....	1868	Williamsburgh and Flatbush.....	1866
Watertown and Cape Vincent.....	1836	Williamsburgh and Newtown.....	1866
Watertown and Rome	1832	Williamstown and Elmira	1850
Watervliet and Schenectady	1836	Williamstown and Redfield.....	1865
Watervliet Turnpike and Railroad Com- pany	1862	Yates Avenue and Flatbush.....	1880
Watkins and Havana Street.....	1872	Yonkers	1873
		Yonkers and New York	1864
		Yonkers Rapid Transit	1879

CONTRACT BETWEEN THE TRUNK LINES

FOR THE ESTABLISHMENT AND MAINTENANCE OF TARIFFS ON COMPETITIVE FREIGHT AND PASSENGER TRAFFIC, ENTERED INTO NOVEMBER 6, 1885, BY AND BETWEEN THE GRAND TRUNK RAILWAY COMPANY OF CANADA, THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY, THE NEW YORK, WEST SHORE AND BUFFALO RAILWAY, THE DELAWARE, LACKAWANNA AND WESTERN RAILROAD COMPANY, THE NEW YORK, LAKE ERIE AND WESTERN RAILROAD COMPANY, THE PENNSYLVANIA RAILROAD COMPANY, THE BALTIMORE AND OHIO RAILROAD COMPANY.

[The western termini of the roads of these parties herein referred to are understood to be as follows: Toronto, Suspension Bridge, Niagara Falls, Tonawanda, Black Rock, Buffalo, East Buffalo, Buffalo Junction, Dunkirk, Salamanca, Erie, Pittsburg, Bellaire, Wheeling, Parkersburg.]

WHEREAS, Past experience has fully established the fact that the joint action of competing railroad companies in establishing and adhering to uniform rates of transportation for like services to the public, is necessary in order to avoid the evils of unjust discrimination and fluctuating rate, so injurious to commercial, as well as to the railroad interests;

Therefore, The parties above named enter into the following contract for the purpose of jointly establishing tariffs over their respective roads on competitive traffic, both passenger and freight (hereafter more particularly specified), and of publishing said tariffs and strictly maintaining the same.

ARTICLE I. All measures necessary to carry out the purpose of this contract shall be taken jointly by the parties hereto, or jointly by such of the parties as may be directly interested, and should any question arise upon which they cannot agree in relation to the terms of this contract, or to any matter arising hereunder, it shall be decided by arbitration, as hereafter provided; it being one of the fundamental principles of this contract that no party shall take separate action in any matter affecting the interest of one or more of the other parties, contrary to the spirit and intent of this contract.

ARTICLE II. The parties to this contract (who, for convenience sake, will hereinafter be designated as "the trunk lines"), agree to enter jointly into arrangements with their connecting roads (both immediate and indirect), for the establishment of through tariffs to and from points beyond the termini of the trunk line roads, and for the distribution of the traffic of said connecting roads among the trunk lines as hereinafter provided.

ARTICLE III. The conditions upon which the trunk lines will enter into such arrangements are, that said connecting roads will also strictly adhere to such established tariffs, and comply with the rules and regulations contained in this contract, or that may from time to time be established by the trunk lines, in the common interest, to secure the objects above set forth. It is an essential part of this contract that the trunk lines will not continue to be, nor hereafter become, parties to any traffic arrangements with any of the aforesaid connecting roads which decline or fail to co-operate with them to this end.

ARTICLE IV. The traffic arrangements herein referred to are: The issue or honoring of joint through bills of lading or through tickets; the interchange of through freight or passenger cars; the collection and advancing of freight charges or passenger fares; or participating by divisions, in through rates or fares upon the traffic covered by this contract. When the term "affiliated roads" is hereinafter used, it refers to all connecting roads which agree to co-operate with the trunk lines, and with which any of such traffic arrangements are established.

ARTICLE V. The trunk lines will communicate to the aforesaid connecting roads the conditions expressed in Article III, upon which they will continue the traffic arrangements (both freight and passenger) referred to in Article IV; and will require the written consent (in agreed form) of the aforesaid connecting roads to said conditions which shall be filed with this contract.

ARTICLE VI. Each of the trunk lines further undertakes to fully control the maintenance of agreed rates and fares on its own road as well as over its affiliated roads, so far as such rates and fares are the subject of this contract.

It is the fundamental principle of this contract that each trunk line shall act as the fully authorized agent and representative of its affiliated roads in all matters connected with the maintenance of the joint tariffs referred to herein, so far as traffic over its own road is concerned, and with the distribution of traffic among the trunk lines provided for herein; and that no officer or agent of said affiliated roads shall have the authority or power to vary from such agreed joint tariffs or do any act in violation of this contract.

ARTICLE VII. The managers and agents of the fast freight lines having traffic arrangements with any of the trunk lines shall be under the sole control of the trunk line over whose road said fast freight lines are operated, so far as the maintenance of agreed tariffs is concerned; and any officer or agent of a fast freight line, who, in violation of this contract, makes special agreements for reduced rates, or which have the effect of evading directly or indirectly the established tariff and rules, even when ordered to do so by any connecting road, shall be discharged from the service and shall not be employed by any trunk line or its affiliated roads, and no trunk line shall be party to carrying out such agreements.

ARTICLE VIII. It is further agreed that no trunk line or its affiliated roads shall enter into any contract with shippers upon traffic covered by this contract, which guarantees rates for any period of time; and that rates shall only be quoted from day to day; but this shall not prevent the guaranteeing of tariff rates on traffic which can be forwarded within ten days or such other time as may be agreed upon for giving notice of an advance in tariff; nor shall it prevent the establishment of tariffs on special articles for a specified time by joint action.

ARTICLE IX. The tariffs to be established and maintained under this contract apply to

First, East-bound dead freight and live stock and dressed meat traffic, as may be more fully specified hereafter.

Second, West-bound freight from the seaboard cities to the western termini of the trunk lines and beyond.

Third, Competitive passenger traffic, first and second class, as may be more fully specified hereafter.

Fourth, Immigrant traffic.

DIVISION OF TRAFFIC.

ARTICLE X. In order to secure the maintenance of agreed tariffs by removing the motive for their violation, openly or secretly, it is further agreed that the following divisions of traffic shall be made between the trunk lines:

First, East-bound dead freight traffic.

Second, East-bound live stock and dressed meat traffic.

Third, West-bound freight traffic.

Fourth, Passenger traffic, east-bound and west-bound, first and second class.

Fifth, Immigrant traffic.

And such other divisions as may hereafter be agreed upon.

ARTICLE XI. Separate contracts shall be made covering each division based upon the principle that suitable provisions shall be made in each contract for each line securing and carrying its allotted percentage, and that only such compensation, if any, shall be allowed for carrying excess of freight or passengers as will promote this result. Settlement of balances which may accrue under said contracts shall be made monthly.

ARTICLE XII. In order to secure the prompt payment of such balances, the contracts for division of traffic shall provide for deposits of a sufficient amount of money to the credit of a trustee or trustees, upon which the monthly drafts for settlement of balances shall be made.

ARTICLE XIII. Other railroad companies not parties to this contract, but whose co-operation is deemed necessary or desirable, may also become parties to said divisions by consent of the trunk lines directly interested.

DIVISION OF TRAFFIC BETWEEN CONNECTING ROADS.

ARTICLE XIV. The trunk lines recognize as a necessity that their western connecting roads, to promote their own interest as well as that of the trunk lines,

shall arrange for a fair division between themselves of traffic originating west of the western termini of the trunk line roads and destined to said termini or east thereof; and for a division of the west-bound traffic originating at or east of the western termini of the trunk lines; and also that their eastern connections shall arrange for divisions of traffic originating east of the eastern termini of the trunk line roads, and destined to their western termini or west thereof. The trunk lines will, therefore, jointly request their affiliated roads to at once enter into contracts for such divisions from all points at which the traffic has heretofore been divided, and from such additional points as may be deemed necessary. They further agree that they will give such aid to such affiliated roads as may be necessary to carry out said contracts.

ARTICLE XV. The disposition to be made of the traffic of the affiliated roads so far as it affects the interests of the trunk lines shall be subject to the approval of the trunk lines acting jointly, and shall not be in conflict with the intent and spirit of this contract, viz.: The mutual protection of the trunk lines and their affiliated roads.

ARTICLE XVI. In case any connecting road at a point where a division of traffic may be deemed necessary refuses to become a party to such division, and it should become necessary in order to protect the parties to such division, the trunk lines will act jointly in determining the relations of such connecting road to the trunk lines.

ARTICLE XVII. It being one of the objects of this agreement to reduce the expenses of the companies parties hereto, the trunk lines further agree that they will limit the fast freight or co-operative lines to the lowest possible number consistent with the proper conduct of their business; and all soliciting and advertising agencies shall be reduced to such number as may be deemed necessary for the convenience of the public and proper conduct of the traffic; and so far as practicable, all offices outside of the regular station offices of the respective companies, parties hereto, shall be made joint offices.

ARTICLE XVIII. The trunk lines hereby further agree that after January 1, 1886, they will not, in reference to any passenger traffic covered by this agreement, pay or be parties to the payment of commissions to any agent of any other railroad company for selling tickets or securing passenger business over their respective roads, and that they will not permit any of their agents to receive commissions for such purposes; and all systems of paying commissions for sale of passenger tickets or securing passenger traffic shall, so soon as practicable, be absolutely abolished.

ARTICLE XIX. This contract shall go into effect the 7th day of November, 1885, and continue in full force and effect until December 31, 1886, and from year to year thereafter. It may be terminated on the 31st day of December of any year by any party hereto giving three months prior notice, in writing, of their desire to withdraw therefrom.

IN WITNESS OF THIS CONTRACT the parties hereto have severally caused to be affixed the signature of their president or chief executive officer.

GRAND TRUNK RAILWAY COMPANY OF CANADA.

[L. S.]

Per J. HICKSON,
General Manager.

In presence of:

R. WRIGHT.

THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY

[L. S.]

By CHAUNCEY M. DEFEW,
President.

In presence of:

H. C. DUVAL.

THE NEW YORK, LAKE ERIE AND WESTERN RAILROAD COMPANY

[L. S.]

By JOHN KING,
President.

Attest:

A. R. MACDONOUGH,
Secretary.

THE DELAWARE, LACKAWANNA AND WESTERN RAILROAD COMPANY.

[L. s.]

By SAM SLOAN,
resident.

Attest:

FRED. F. CHAMBERS,
*Secretary.*Attest:
J. D. LAYNG.{ HORACE RUSSELL,
THE. HOUSTON,{ As receivers of the property
covered by the first mortgage
of the New York, West Shore
and Buffalo Railway Company.

THE PENNSYLVANIA RAILROAD COMPANY.

[L. s.]

By G. B. ROBERTS,
President.

Attest:

JNO. C. SIMS, JR.,
Secretary.

THE BALTIMORE AND OHIO RAILROAD COMPANY, subject to the reservation that it will be bound by the provisions hereof, so far as relates to passenger traffic, only in case it is a member of the Trunk Line Passenger Division.

[L. s.]

By ROBERT GARRETT,
President.

Attest:

W. H. LAMS,
Secretary.

The above is a correct copy of the contract between the trunk lines named therein.

ALBERT FINK,
Commissioner.

TRUNK LINE ORGANIZATION AND RULES.

TRUNK LINE ORGANIZATION.

WHEREAS, On this 6th day of November, 1885, a contract has been entered into, for the purposes fully stated therein, between the following parties:

The Grand Trunk Railway Company of Canada, the New York Central and Hudson River Railroad Company, the New York, West Shore and Buffalo Railway, the Delaware, Lackawanna and Western Railroad Company, the New York, Lake Erie and Western Railroad Company, the Pennsylvania Railroad Company, the Baltimore and Ohio Railroad Company:

Now, therefore, in order to successfully carry out the provisions of said contract, the following organization and general rules are hereby agreed to and adopted:

Trunk Line Presidents' Committee.

SECTION 1. The presidents or chief executive officers of the companies shall constitute a committee, to be known as the trunk line presidents' committee, which committee shall decide upon all measures necessary to carry out the purpose of the contract above referred to, and authorize the same to be put into effect. The committee shall elect a chairman from its own members.

§ 2. Meetings of the presidents' committee may be held at stated times to be agreed upon, or may be called by the chairman whenever he deems it necessary, or upon the request of any member.

§ 3. All joint measures referred to in section 1, upon which the presidents' committee, after full consideration, cannot agree, shall be finally decided by arbitration in the manner more particularly specified hereinafter.

Trunk Line Executive Committee.

§ 4. The presidents' committee shall appoint an executive committee, to be called the trunk line executive committee, and to consist of a vice-president of each company, which committee shall be charged with carrying out, in detail, the instructions of the presidents' committee.

§ 5. The presidents' committee shall also appoint a commissioner, who shall act as secretary of said committee and as chairman of the trunk line executive committee, and who shall, under the direction of said committees, carry out any measures agreed upon or decided by arbitration acting as their executive officer.

§ 6. The trunk line executive committee shall meet at stated times to be agreed upon, or upon the request of any member, or whenever deemed necessary by the chairman.

§ 7. In case the trunk line executive committee is not unanimous upon any question, it shall be the duty of the commissioner to endeavor to secure an agreement, but failing to do so, the question at issue shall be forthwith submitted to the presidents' committee for their action, and they failing to agree, to arbitration, as specified above. The presidents' committee may direct that certain questions of difference which do not require their special attention shall be arbitrated in the executive, freight or passenger committees, and the rules of these committees may specify cases that shall go to arbitration in said committees without being referred to the presidents' committee.

§ 8. Should any question arise in the trunk line executive committee which requires an immediate decision and upon which the members of the committee cannot agree, the commissioner shall, at the request of two-thirds of the members of the committee, make a temporary decision, subject to the final action of the presidents' committee or arbitration, as above provided.

Freight and Passenger Committees.

§ 9. The trunk line executive committee shall appoint two sub-committees, one for the freight department to be called the freight committee, consisting of the traffic managers or general freight agents, and one for the passenger department to be called the passenger committee, consisting of the traffic managers or general passenger agents of the respective companies; and to them shall be intrusted the transaction of such business as is delegated to those officers in their respective departments in the service of their companies.

§ 10. The trunk line executive committee shall appoint a commissioner for the freight department and a commissioner for the passenger department, each of whom shall act as chairman at the meetings of their respective committees, with the same duties in said committees as those of the commissioner in the executive committee as specified above.

§ 11. In case of failure to agree in said freight and passenger committees, the questions at issue shall be referred to the executive committee, to be acted upon as hereinbefore provided.

Special Committees.

§ 12. The freight and passenger committees may appoint sub-committees for special purposes as may be deemed necessary to facilitate the transaction of business.

Authority of Committees.

§ 13. The members of the executive committee and of the freight and passenger committees are authorized to act with full authority upon all questions which come under the jurisdiction of the office they hold in the service of their companies. No officer or agent of any company shall be a member of said committees who has not full authority to act upon all questions that legitimately come before said committees. In case any company has no vice-president in charge of the traffic department, such company shall appoint an officer on the trunk line executive committee, fully authorized to deal with both freight and passenger matters in meetings of said committee; the intention being that all business that comes within the sphere of action of each committee shall be promptly and finally acted upon under its rules.

§ 14. The object for which meetings of the several committees are called shall be communicated to the members of the committees at the time the call is made; but this shall not prevent the consideration, with the consent of all the members, of other business at such meetings upon which action may be required.

§ 15. Should any road be unable to be represented at any meeting of the executive, freight or passenger committees, and should it be necessary to take immediate action upon the subject-matter under consideration, the chairman of such committee shall be authorized by the roads not represented, to act for said roads, such action to be binding until revoked at a subsequent meeting when the roads may be represented; it being the intention of this provision to avoid delay that might arise from the non-attendance of members.

§ 16. Each of the committees above named shall establish its rules of procedure as well as regulations by which its business shall be governed, not in conflict with the general organization. The rules of the trunk line executive committee are to be subject to the approval of the presidents' committee; and those of the freight and passenger committees to the approval of the trunk line executive committee.

§ 17. In all questions of order and procedure in said committees not specially provided for in the rules, the vote of a majority of the members of the committee shall govern, and in case of a tie vote, the decision of the chairman shall be final; but all questions on which there may be disagreement in respect of measures necessary to promptly and efficiently carry out the purpose and object of the contract, if not finally decided by the presidents' committee, shall be decided by arbitration.

§ 18. A secretary of the trunk line executive committee as well as secretaries for the freight and passenger committees shall be appointed by the chairmen with the approval of the respective committees, whose duty it shall be to keep records of the proceedings of the various committees, and to perform such other services as may be assigned to them.

§ 19. Copies of the proceedings of meetings shall be furnished to the members of the committees respectively, after the adjournment of each meeting, and they shall carefully examine the same and notify the chairman promptly of any correction or change therein that may be required. Unless such notice is received within a week after the receipt of the proceedings, it shall be presumed that they are approved.

§ 20. The commissioner shall also appoint such other officers and clerks as may be deemed necessary by the executive committee to carry out the work contemplated under the contract.

Expenses of Organization.

§ 21. The expenses of the organization shall be borne by the parties to the contract in proportion to the gross revenue derived from the business covered thereby, as nearly as this can be ascertained.

§ 22. The commissioner shall have supervision of the expenses of the organization under the direction of the trunk line executive committee, and said committee shall audit the accounts monthly, or cause them to be audited through a sub-committee.

§ 23. A deposit of \$15,000 shall be made with the commissioner, as a working fund to defray the current expenses of the organization. The amount to be deposited by each trunk line shall be assessed on the basis stated in section 21.

Arbitration.

§ 24. A permanent arbitrator (or board of arbitration) shall be appointed by the trunk line presidents' committee, to whom shall be submitted for final decision all questions arising under the contract upon which the parties thereto cannot agree. It shall be the duty of said arbitrator to devote his whole time to the duties of his office, to attend the meetings of the various committees as far as practicable, and to keep himself informed as to the facts bearing on all questions which are likely to arise and upon which he may be called to adjudicate.

§ 25. Before any question is submitted to arbitration, a meeting of the interested parties shall be held for the purpose of endeavoring to agree upon the question at issue, at which the arbitrator shall be present. If no agreement can

be reached and the arguments and facts laid before the meeting are thought to be sufficient, by the interested parties as well as by the arbitrator, to form a basis for decision, said decision shall be rendered by the arbitrator upon such facts, as soon as practicable, without further hearing.

§ 26. But if it is thought necessary to have additional facts and arguments submitted, in order to enable the arbitrator to reach correct conclusions, then such additional facts and arguments shall be laid before the arbitrator within ten days from the date of said meeting except in cases where their preparation may require additional time, when such additional time shall be determined by the arbitrator.

§ 27. Within a week from the submission of such arguments and facts, a decision shall be rendered by the arbitrator.

§ 28. If said decision is not satisfactory to any one of the interested parties, and it can be shown to the satisfaction of the arbitrator, within five days after the decision is made, that facts which should have had a material bearing upon his decision were either not fully considered or were not submitted at the first hearing, the case shall be immediately reopened. The grounds upon which such reopening is granted by the arbitrator shall be fully stated by him and communicated to the interested parties with the arguments of the dissenting party or parties within fifteen days after the original decision is made; and a hearing shall be had within ten days thereafter. At such rehearing parties shall be permitted to submit only arguments and facts pertinent to the questions raised by the dissenting party or parties, and upon which the rehearing was granted; and the arbitrator shall then either reaffirm or modify his previous decision, and this shall be final.

§ 29. Nothing in the above rules shall prevent the settlement of any question upon which the trunk line executive, or the freight or passenger committees cannot agree, by a decision of the chairmen of the respective committees, when submitted to them by agreement of the parties interested; provided the questions at issue can be acted upon under the authority conferred on the respective committees.

Relations with Affiliated Roads.

§ 30. To facilitate the transaction of business between trunk lines and their affiliated roads the chief managing officers of said affiliated roads and the members of the trunk line executive committee shall constitute a committee to be called the joint committee. It shall be its duty to establish all through tariffs and classifications, to agree upon divisions of through rates and through fares, and to make such rules and regulations affecting the tariffs as may be deemed necessary to secure uniformity and stability.

§ 31. The chairman of the trunk line executive committee shall act as chairman of the joint committee, with the same duties as under the organization of the trunk line executive committee; but said joint committee may make such additional organization as may be deemed desirable to carry out the object for which it is established.

§ 32. The joint committee shall appoint the following sub-committees: An east-bound classification committee; cotton rate committee; tobacco rate committee, and such other committees as may be considered necessary to facilitate the transaction of business.

§ 33. The trunk line executive committee shall act as the standing committee of the joint committee.

§ 34. If the joint committee cannot agree upon joint tariffs or upon any rules or regulations affecting said tariffs, or upon the division of rates and fares with common connections of two or more trunk lines, the trunk line executive committee shall decide the question under its rules, after hearing the arguments of the various parties interested.

§ 35. If any affiliated road is not represented at any meeting of the joint committee, the trunk line or trunk lines over which said road has traffic arrangements shall represent the said affiliated road. In case any affiliated road has traffic arrangements with several trunk lines, who may not be able to agree, then the trunk line executive committee as a whole, shall take action under its rules upon the question at issue.

§ 36. The joint committee may be called together at the request of three members of the trunk line executive committee, or at the request of the chief managing officers of three of the affiliated roads, or by the chairman.

General Rules.

It being recognized that the successful carrying out of the contract depends upon the good faith of the parties thereto, and that it, therefore, becomes the duty of each trunk line, not only to conform to the intent and spirit of the contract, so far as its own road is concerned, but also to take the responsibility for the acts of its affiliated roads, the following general rules based upon this principle are hereby adopted, subject to such amendments and additions as experience may suggest:

§ 37. In case a violation of the established tariffs or the rules governing the same comes to the knowledge of any trunk line, notice shall at once be given to the commissioner, who shall communicate the charges to the trunk line over whose road the traffic upon which the alleged violation is made has been forwarded, or is to be forwarded, and said trunk line shall at once make the necessary investigation of the acts of its own agents or the agents of its connecting or fast freight lines for which it has assumed the responsibility, and, finding the charge correct, it shall immediately take measures to remove the cause of complaint and report the facts and any action taken, through the commissioner, to the trunk line executive committee, which, if necessary, shall at once be called together to take joint action in conformity with the contract.

§ 38. Should a violation of the established tariffs or the rules governing the same come to the knowledge of any of the affiliated roads, the same shall be reported to the trunk line or trunk lines with which it has traffic arrangements, and said trunk line shall proceed as provided in section 37.

§ 39. If the cause of complaint is not removed within a week from the time the complaint is made, or if any trunk line neglects or refuses to take prompt and proper action in the matter, as provided in section 37, it shall be the duty of the commissioner to at once call a meeting of the executive committee, to take such action in the matter as may be deemed necessary to enforce the provisions of the contract.

§ 40. Pending the action of the executive committee, the complaining party shall not meet any alleged reductions in rates, or take any separate action whatsoever in violation of the contract; but all action necessary to protect the trunk lines and their affiliated roads shall be taken jointly, and under the instructions of the executive committee.

§ 41. The trunk line executive committee is authorized, under the direction of the presidents' committee, to enter into agreements with competing roads, not parties to the contract, for the establishment of joint tariffs and the maintenance of the same.

§ 42. None of the affiliated roads shall enter into traffic arrangements with roads whose tariffs affect the tariffs established under the contract, except upon the condition that such roads shall maintain the said tariffs or enter into agreements for the establishment and maintenance of special tariffs on competitive traffic. In case no such agreements can be made, such joint action shall be taken by the trunk lines as may be necessary for their protection.

§ 43. None of the trunk lines nor their affiliated roads shall make reductions in the established tariffs on the plea that some competing road not party to the contract has made reductions affecting said tariffs; but the case shall be reported through the commissioner, to the executive committee for joint action.

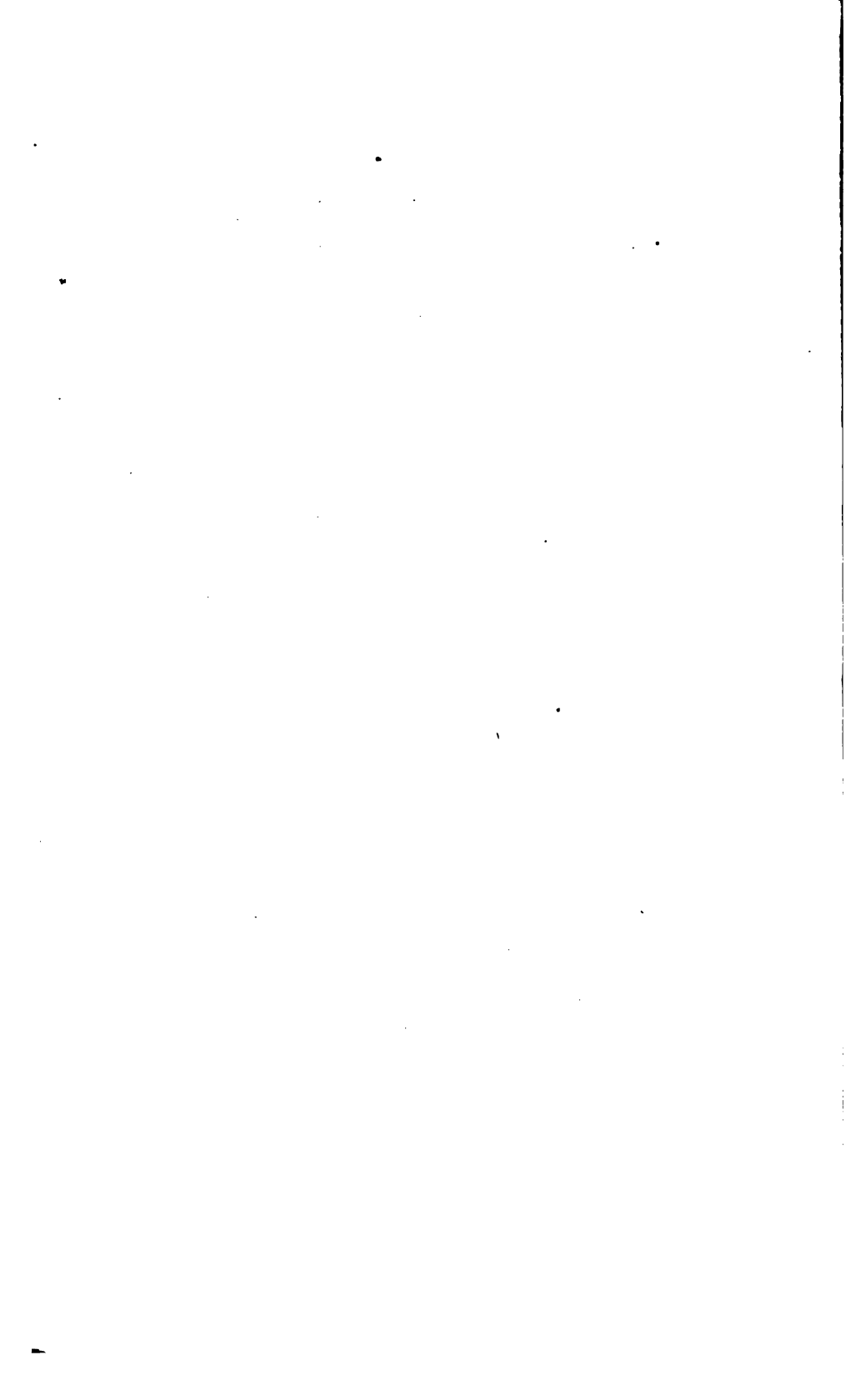
The above is a correct copy of the organization and rules adopted by the trunk lines named on page

ALBERT FINK,
Commissioner.

RAILROAD LAWS.

THE GENERAL ACT OF 1850, AS AMENDED BY SUBSEQUENT ACTS—
REVISED STATUTES REFERRED TO IN SECTION 1, CHAPTER 140,
LAWS OF 1850 — STATUTES RELATING GENERALLY TO RAILROADS
— SECTIONS OF THE CRIMINAL AND PENAL CODES APPLYING TO
RAILROAD CORPORATIONS.

COMPILED BY THE BOARD OF RAILROAD COMMISSIONERS.



GENERAL RAILROAD ACT.

Section 1. Manner of organization ; articles to be filed in office of Secretary of State.

Section 2. Conditions of filing.

Section 3. Evidence of incorporation.

Section 4. Manner of subscribing for additional stock.

Section 5. Directors and their election ; vacancies ; inspectors of election ; qualifications for director ; purchasers of property of railroad corporation may, with others, become a corporation and associate with any number of persons and make and file articles ; not to authorize increase of fare.

Section 6. Officers, how appointed.

Section 7. Subscriptions, how paid and how forfeited.

Section 8. Stock declared personal estate ; company prohibited from purchasing the same.

Section 9. Capital stock ; how it may be increased ; notice to be published ; penalties for violation.

Section 10. Liabilities of stockholders.

Section 11. Representative stock.

Section 12. Payment of laborers' wages ; liability of railroad company ; notice to be given railroad company, and what to state ; how verified and served ; when actions to be commenced.

Section 13. How title to real estate is acquired.

Section 14. By petition to Supreme Court ; allegations necessary ; copy petition upon whom served :

1. How served on residents
2. How served on non-residents ; if residence known, copy to be sent by mail.
3. How served on infants.
4. How served on idiots.
5. Service where residence is unknown.
6. Court to appoint guardian for infants.
7. Service in cases not enumerated.

Section 15. Appraisal of damages.

Section 16. Commissioners of appraisal ; commissioners to make report to Supreme Court.

Section 17. On report being made ; company to give notice, report, how confirmed.

Section 18. Order, where to be recorded ; its effect where company neglects to have order recorded ; real estate thus acquired for public use ; appeals, when heard ; new appraisal

Section 19. Adverse claims to compensation ; how settled.

Section 20. Protection of unknown parties ; amending proceedings.

Section 21. Proceedings when title is defective ; additional land, how acquired ; water rights ; right of way ; acquiring by purchase ; condemnation ; limitation ; proviso in case of mortgagee or receiver.

Section 22. Map of route of railroad to be filed before construction ; notice to occupants of lands ; objections to route, how made ; the application to Supreme Court to be accompanied with map of proposed alterations ; court to appoint commissioners to examine, who may affirm or alter route ; engineer, on commission, must concur ; determination, map and testimony to be filed ; appeals ; a court may affirm route or adopt alteration ; the pay of commissioners.

Section 23. Directors may change route ; survey ; may acquire land ; alteration in city or village ; compensation ; prohibits alteration when certain bonds have been issued.

Section 24. Crossings and intersections ; how additional lands for, taken.

Section 25. State lands, how acquired by company.

Section 26. Title, how acquired; when trustees, guardian or committee are not authorized to sell.

Section 27. Weight of iron rails on grades, etc.; how to apply act.

Section 28. Additional powers conferred:

1. May enter upon lands for purpose of survey.
2. May hold voluntary grants of real estate.
3. May purchase, hold and use real estate; reference to Indian lands.
4. Construction of road.
5. May construct road across any stream, canal and highway; bridges or obstruction prohibited; streets in cities not to be used without consent of corporation, nor along highways, without order of Supreme Court.
6. Right to cross, intersect, etc., other railroads; proceeding in case two railroads cannot agree; companies shall receive from such other and forward freight.
7. Conveyance of passengers and property.
8. Buildings and stations.
9. Time and manner of transportation, and rates of fare.
10. May borrow money necessary for completion or operation of road.

Section 29. Canal tolls, etc., repealed.

Section 30. Conductors and servants to wear badges.

Section 31. Annual report.

Section 32. Penalty for not making annual report.

Section 33. Legislature may alter or reduce rate of freight, fare, etc.

Section 34. Mails.

Section 35. Passengers refusing to pay fare.

Section 36. Notice of times of starting, etc.; preferences forbidden.

Section 37. Baggage arrangements; checks to be given; penalty for refusal.

Section 38. Passenger trains, how formed; penalty.

Section 39. Repealed.

Section 40. Sign-boards at road crossings; size of inscription; proviso.

Section 41. Punishment of railroad employees for intoxication; punishment in case of death or injury of persons by reason of neglect occasioned thereby.

Section 42. Persons injuring railroad property; how punished.

Section 43. Penalties; how sued for.

Section 44. Fencing; penalty for driving animals on railroads; unlawful to walk upon track.

Section 45. Maps to be filed with State Engineer and Surveyor and in county clerks' offices; scale of maps.

Section 46. Duty of passengers.

Section 47. Road when to be commenced and finished.

Section 48. Legislative power to dissolve.

Section 49. What sections of this law applicable to existing corporations.

Section 50. General repeal.

Section 51. New York and Erie railroad.

Manner of organization; articles to be filed in office of Secretary of State.

SECTION 1. Any number of persons, not less than twenty-five, may form a company for the purpose of constructing, maintaining and operating a railroad for public use in the conveyance of persons and property, or for the purpose of maintaining and operating any unincorporated railroad already constructed for the like public use; and for that purpose may make and sign articles of association, in which shall be stated the name of the company; the number of years the same is to continue; the places from and to which the road is to be constructed, or maintained and operated; the length of such road as near as may be, and the name of each county in this State through or into which it is made, or intended to be made; the amount of the capital stock of the company, which shall not be less than \$10,000 for every mile of road constructed, or proposed to be constructed, and the number of shares of which said capital stock shall consist, and the names and places of residence of thirteen directors of the company, who shall manage its affairs for the first year, and until others are chosen in their places. Each subscriber to such articles of association shall subscribe thereto

his name, place of residence, and the number of shares of stock he agrees to take in said company. On compliance with the provisions of the next section, such articles of association may be filed in the office of the Secretary of State, who shall indorse thereon the day they are filed, and record the same in a book to be provided by him for that purpose; and thereupon the persons who have so subscribed such articles of association, and all persons who shall become stockholders in such company, shall be a corporation by the name specified in such articles of association, and shall possess the powers and privileges granted to corporations, and be subject to the provisions contained in title 3 of chapter 18 of the first part of the Revised Statutes, except the provisions contained in the seventh section of said title.

See title 3 of chap. 18 of the first part of the Revised Statutes referred to in above section, pages 494, 495 hereof.

Also amended certificates, § 1, chap. 829, Laws of 1872, page 507 hereof.

See chap. 135 Laws of 1870, at page 562 hereof.

Part of line in another State, chap. 19, Laws of 1861, page 507.

As to reorganization, see chap. 430, Laws of 1874, page 525 hereof.

Cable Roads, see chap. 697, Laws of 1886, page 493 hereof.

Elevated Roads, see chap. 606, Laws of 1875, page 533 hereof.

Narrow Gauge Roads, see §§ 5, 6, 7, chap. 500, Laws of 1871, pages 505, 506 hereof.

Street Roads, see chap. 252, Laws of 1884, page 554 hereof.

To operate roads in foreign countries see chap. 468, Laws of 1881, page 509 hereof.

Conditions of filing.

§ 2. Such articles of association shall not be filed and recorded in the office of the Secretary of State, until at least \$1,000 of stock for every mile of railroad proposed to be made is subscribed thereto, and ten per cent paid thereon in good faith, and in cash, to the directors named in said articles of association; nor until there is indorsed thereon, or annexed thereto, an affidavit made by at least three of the directors named in said articles, that the amount of stock required by this section has been in good faith subscribed, and ten per cent paid in cash thereon as aforesaid, and that it is intended in good faith to construct or to maintain and operate the road mentioned in such articles of association, which affidavit shall be recorded with the articles of association, as aforesaid.

Evidence of incorporation.

§ 3. A copy of any articles of association filed and recorded in pursuance with this act, or of the record thereof, with a copy of the affidavit aforesaid indorsed thereon or annexed thereto, and certified to be a copy by the Secretary of this State, or his deputy, shall be presumptive evidence of the incorporation of such company, and of the facts therein stated.

Manner of subscribing for additional stock.

§ 4. When such articles of association and affidavit are filed and recorded in the office of the Secretary of State, the directors named in said articles of association may, in case the whole of the capital stock is not before subscribed, open books of subscription to fill up the capital stock of the company, in such places and after giving such notice as they may deem expedient, and may continue to receive subscriptions until the whole capital stock is subscribed. At the time of subscribing, every subscriber shall pay to the directors ten per cent on the amount subscribed by him, in money; and no subscription shall be received or taken without such payment.

Directors and their election; their numbers; vacancies; inspectors of election; qualifications for director; purchasers of property of railroad corporation may, with others, become a corporation and associate with any number of persons and make and file articles; not to authorize increase of fare.

§ 5. There shall be a board of thirteen directors of every corporation formed under this act to manage its affairs, and said directors shall be chosen annually by a majority of the votes of the stockholders voting at such election, in such manner as may be prescribed in the by-laws of the corporation, and they may and shall continue to be directors until others are elected in their places. In the election of directors each stockholder shall be entitled to one vote personally or by proxy, on every share held by him thirty days previous to any such election; and vacancies in the board of directors shall be filled in such manner as shall be prescribed by the by-laws of the corporation. The

inspectors of the first election of directors shall be appointed by the board of directors named in the articles of association. No person shall be a director unless he shall be a stockholder, owning stock absolutely in his own right and qualified to vote for directors at the election at which he shall be chosen: and at every election of directors the books and papers of such company shall be exhibited to the meeting if a majority of the stockholders present shall require it. And whenever the purchaser or purchasers of the real estate, track and fixtures of any railroad corporation which has heretofore been sold, or may be hereafter sold, by virtue of any mortgage executed by such corporation, or execution issued upon any judgment or decree of any court shall acquire title to the same in the manner prescribed by law, such purchaser or purchasers may associate with him and them any number of persons, and make and acknowledge and file articles of association as prescribed by this act. Such purchaser or purchasers and their associates shall thereupon be a corporation with all the powers, privileges and franchises and be subject to all the provisions of said act. The purchaser or purchasers or the grantees or grantees of any purchaser or purchasers of the real estate, track and fixtures of any railroad corporation which has heretofore been sold, or may be hereafter sold, by virtue of any mortgage, or by virtue of any judgment, decree or order of any court having jurisdiction in the premises, may associate with him or them any number of persons and make and acknowledge and file articles of association as prescribed by the first section of this act; such articles shall be entitled to be filed when there is indorsed thereon an affidavit made by at least three of the directors named in said articles, that it is intended in good faith to maintain and operate the road mentioned in such articles, and upon the filing thereof, so indorsed, the parties making such articles of association and their associates, shall thereupon be a corporation with all the powers, privileges and franchises, and subject to all the provisions of this act. Nothing herein contained shall be construed to authorize any company organized under this act to charge any greater rate of fare than they were authorized by law to charge previous to such reorganization. (*Thus amended, Laws of 1854, chap. 282, and Laws 1873, chap. 710.*)

Stockholders' meeting. See chap. 510, Laws of 1880, page 555 hereof.

When railroad does not exceed twenty miles in length board of directors may consist of seven stockholders. See chap. 582, Laws of 1864, at page 517 hereof.

Directors may postpone election. See chap. 586, Laws 1875, at page 554 hereof, and chap. 517, Laws of 1881, at page 562 hereof.

Authorizing change in time and place of holding elections. See chap. 498, Laws of 1885, page 542.

Officers, how appointed.

§ 6. The directors shall appoint one of their number president; they may also appoint a treasurer and secretary, and such other officers and agents as shall be prescribed by the by-laws.

Subscriptions, how paid and how forfeited.

§ 7. The directors may require the subscribers to the capital stock of the company to pay the amount by them respectively subscribed, in such manner and in such installments as they may deem proper. If any stockholder shall neglect to pay any installment as required by a resolution of the board of directors, the said board shall be authorized to declare his stock, and all previous payments thereon, forfeited for the use of the company; but they shall not declare it so forfeited until they shall have caused a notice in writing to be served on him personally, or by depositing the same in the post-office, properly directed to him at the post-office nearest his usual place of residence, stating that he is required to make such payment at the time and place specified in said notice; and that if he fails to make the same, his stock and all previous payments thereon will be forfeited for the use of the company; which notice shall be served as aforesaid, at least sixty days previous to the day on which such payment is required to be made.

Stock declared personal estate; company prohibited from purchasing the same.

§ 8. The stock of every company formed under this act shall be deemed personal estate and shall be transferable in the manner prescribed by the by-laws of the company, but no share shall be transferable until all previous calls thereon

shall have been fully paid in ; and it shall not be lawful for such company to use any of its funds in the purchase of any stock in its own or in any other corporation.

Capital stock ; how it may be increased ; notice to be published ; penalties for violation.

§ 9. In case the capital stock of any company formed under this act is found to be insufficient for constructing and operating its road, such company may, with the concurrence of two-thirds in amount of all its stockholders, and the written approval of the State Engineer and Surveyor, until such time as there shall be appointed a board of railroad commissioners, and after that with the written approval of such board, increase its capital stock, from time to time, to any amount required for the purposes aforesaid. Such increase must be sanctioned by a vote in person, or by proxy, of two-thirds in amount of all the stockholders of the company, at a meeting of such stockholders, called by the directors of the company for that purpose, by a notice in writing to each stockholder, to be served on him personally, or by depositing the same, properly folded and directed to him at the post-office nearest his usual place of residence, in the post-office at least twenty days prior to such meeting. Such notice must state the time and place of the meeting, and its object, and the amount to which it is proposed to increase the capital stock. The proceedings of such meeting must be entered on the minutes of the proceedings of the company, and thereupon the capital stock of the company may be increased to the amount sanctioned by a vote of two-thirds in amount of all the stockholders of the company as aforesaid. A copy of such notice shall also be published within the county where the main office of such corporation shall be located, once a week for four weeks prior to such meeting, in a newspaper to be designated by the State Engineer and Surveyor, until such time as a Board of Railroad Commissioners shall be appointed, and after that time by such Board, and in no case, and under no circumstances, shall any railroad company of this State increase its stock except upon the notice and with the approval herein provided. Any officer or director of any railroad company violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment not less than six months and by fine not exceeding \$1,000. (*Thus amended, Laws of 1880, chap. 183.*)

Stock may be reduced. See chap. 284, Laws 1878, at page 503 hereof.

Preferred stock may be exchanged for common. See chap. 225, Laws 1880, at page 504 hereof.

When stock insufficient for reorganization it may be increased. Chap. 155, Laws 1880, at page 539 hereof.

Liabilities of stockholders.

§ 10. Each stockholder of any company formed under this act shall be individually liable to the creditors of such company, to an amount equal to the amount unpaid on the stock held by him, for all the debts and liabilities of such company, until the whole amount of the capital stock so held by him shall have been paid to the company, and all the stockholders of any such company shall be jointly and severally liable for the debts due or owing to any of its laborers and servants, other than contractors, for personal services for thirty days' service performed for such company, but shall not be liable to an action therefor before an execution shall be returned unsatisfied in whole or in part against the corporation, and the amount due on such executions shall be the amount recoverable, with costs, against such stockholders ; before such laborer or servant shall charge such stockholder for such thirty days' services, he shall give him notice in writing within twenty days after the performance of such service, that he intends so to hold him liable, and shall commence such action therefor within thirty days after the return of such execution unsatisfied, as above mentioned ; and every such stockholder against whom any such recovery by such laborer or servant shall have been had, shall have a right to recover the same of the other stockholders in said corporation, in ratable proportion to the amount of the stock they shall respectively hold with himself ; and all laws whereby the stockholders, officers and agents of any railroad corporation are made individually liable for the debts or liabilities of such corporation beyond the provisions contained in the act entitled " An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2,

1850, and the acts amending the same, are hereby repealed. (*Thus amended by Laws of 1854, chap. 282.*)

See chap. 230, Laws of 1845, page 518 hereof.

See § 8, chap. 332, Laws of 1875, at page 551 hereof.

Representative stock.

§ 11. No person holding stock in any such company, as executor, administrator, guardian or trustee, and no person holding such stock as collateral security, shall be personally subject to any liability as stockholder of such company; but the person pledging such stock shall be considered as holding the same, and shall be liable as a stockholder accordingly; and the estates and funds in the hands of such executor, administrator, guardian or trustee, shall be liable in like manner, and to the same extent as the testator, or intestate, or the ward or person interested in such trust fund would have been if he had been living and competent to act, and held the same stock in his own name.

Payment of laborer's wages; liability of railroad company; notice to be given railroad company and what to state; how verified and served; when actions to be commenced.

§ 12. As often as any contractor for the construction of any part of a railroad, which is in progress of construction, shall be indebted to any laborer for thirty or any less number of days' labor performed in constructing said road, such laborer may give notice of such indebtedness to said company in the manner herein provided; and said company shall thereupon become liable to pay such laborer the amount so due him for such labor, and an action may be maintained against said company therefore. Such notice shall be given by said laborer to said company within twenty days after the performance of the number of days' labor for which the claim is made. Such notice shall be in writing, and shall state the months and particular days of the month upon which labor was performed and remains unpaid for, the price per day, the amount due, with the name of the contractor from whom due, the section of the road performed, and shall be signed by such laborer or his attorney, to which notice an affidavit shall be annexed, made by such laborer or his attorney, to the effect that of his own knowledge the statements contained in such notice are in all respects true. Such notice, so verified, shall be served on an engineer, agent or superintendent employed by said company, having charge of the section of the road on which such labor was performed, personally or by leaving the same at the office or usual place of business of such engineer, agent or superintendent, with some person of suitable age. But no action shall be maintained against any company, under the provisions of this section, unless the same is commenced after ten and within thirty days after notice is given to the company by such laborer as above provided. (*Thus amended by Laws of 1871, chap. 669.*)

As to lien of employees for labor, see Laws 1875, chap. 332, at pages 550, 551. Also

Laws 1885, chap. 374, page 551.

To extend to bridges and trestles, see Laws of 1870, chap. 529, page 551 hereof.

How title to real estate is acquired.

§ 13. In case any company formed under this act is unable to agree for the purchase of any real estate required for the purposes of its incorporation, it shall have the right to acquire title to the same, in the manner and by the special proceedings prescribed in this act.

Special estates, how acquired, see chap. 521, Laws of 1857, § 2, at page 522 hereof.

As to streets or avenues in cities or villages, see § 2, chap. 198, Laws of 1875, page 533 hereof.

May purchase and hold real estate in other States, see § 2, chap. 536, Laws of 1875, at page 564 hereof.

See chap. 232, Laws of 1854, page 498 hereof.

By petition to Supreme Court; allegations necessary; copy petition upon whom served.

§ 14. For the purpose of acquiring such title, the said company may present a petition, praying for the appointment of commissioners of appraisal, to the Supreme Court, at any general or special term thereof held in the district in which the real estate described in the petition is situated. Such petition shall be signed and verified according to the rules and practice of such court. It must contain a

description of the real estate which the company seeks to acquire; and it must, in effect, state that the company is duly incorporated, and that it is the intention of the company, in good faith, to construct and finish a railroad from and to the places named for that purpose in its articles of association; that the whole capital stock of the company has been in good faith subscribed as required by this act; that the company has surveyed the line or route of its proposed road, and made a map or survey thereof, by which such route or line is designated, and that they have located their said road according to such survey, and filed certificates of such location, signed by a majority of the directors of the company, in the clerk's office of the several counties through or into which the said road is to be constructed; that the land described in the petition is required for the purpose of constructing or operating the proposed road; and that the company has not been able to acquire title thereto, and the reason of such inability. The petition must also state the names and places of residence of the parties, so far as the same can, by reasonable diligence, be ascertained, who own or have, or claim to own or have, estates or interests in the said real estate; and if any such persons are infants, their ages, as near as may be, must be stated; and if any of such persons are idiots or persons of unsound mind, or are unknown, that fact must be stated, together with such other allegations and statements of liens or incumbrances on said real estate as the company may see fit to make. A copy of such petition, with a notice of the time and place the same will be presented to the Supreme Court, must be served on all persons whose interests are to be affected by the proceedings, at least ten days prior to the presentation of the same to the said court.

See § 1, chap. 53, Laws of 1853, at page 523 hereof; and chap. 515, Laws 1867, page 502 hereof.

Notice to be given where land forms part of street, chap. 198, Laws 1876, at page 523 hereof.

How served on residents.

1. If the person on whom such service is to be made resides in this State, and is not an infant, idiot, or person of unsound mind, service of a copy of such petition and notice must be made on him, or his agent or attorney, authorized to contract for the sale of the real estate described in the petition, personally, or by leaving the same at the usual place of residence of the person on whom service must be made as aforesaid, with some person of suitable age.

How served on non-residents, if residence known; copy to be sent by mail.

2. If the person on whom such service is to be made resides out of the State, and has an agent residing in this State, authorized to contract for the sale of the real estate described in the petition, such service may be made on such agent, or on such person personally out of the State; or it may be made by publishing the notice, stating briefly the object of the application, and giving a description of the land to be taken, in the State paper, and in a paper printed in the county in which the land to be taken is situated, once in each week for one month next previous to the presentation of the petition. And if the residence of such person residing out of this State, but in any of the United States, or any of the British colonies in North America, is known, or can by reasonable diligence be ascertained, the company must, in addition to such publication as aforesaid, deposit a copy of the petition and notice in the post-office, properly folded and directed, to such person at the post-office nearest his place of residence, at least thirty days before presenting such petition to the court, and pay the postage chargeable thereon in the United States.

How served on infants.

3. If any person on whom such service is to be made is under the age of twenty-one years, and resides in this State, such service shall be made as aforesaid on his general guardian; or if he has no such guardian, then on such infant personally, if he is over the age of fourteen years; and if under that age, then on the person who has the care of, or with whom such infant resides.

How served on idiots.

4. If the person on whom such service is to be made is an idiot, or of unsound

mind, and resides in this State, such service may be made on the committee of his person or estate ; or, if he has no such committee, then on the person who has the care and charge of such idiot or person of unsound mind.

Service where residence is unknown.

5. If the person on whom such service is to be made is unknown, or his residence is unknown, and cannot by reasonable diligence be ascertained, then such service may be made, under the direction of the court, by publishing a notice, stating the time and place the petition will be presented, the object thereof, with a description of the land to be affected by the proceedings, in the State paper, and in a paper printed in the county where the land is situated, once in each week for one month previous to the presentation of such petition.

Court to appoint guardian for infants and idiots.

6. In case any party to be affected by the proceedings is an infant, idiot, or of unsound mind, and has no general guardian or committee, the court shall appoint a special guardian or committee to attend to the interests of such person in the proceedings ; but if a general guardian or committee has been appointed for such person in this State, it shall be the duty of such general guardian or committee to attend to the interests of such infant, idiot, or person of unsound mind ; and the court may require such security to be given by such general or special guardian or committee, as it may deem necessary to protect the rights of such infant, idiot, or person of unsound mind ; and all notices required to be served in the progress of the proceedings may be served on such general or special guardian or committee.

Service in cases not enumerated.

7. In all cases not herein otherwise provided for, service of orders, notices, and other papers in the special proceedings authorized by this act may be made as the Supreme Court shall direct.

Appraisal of damages.

§ 15. On presenting such petition to the Supreme Court as aforesaid, with proof of service of a copy thereof and notice as aforesaid, all or any of the persons whose estates or interests are to be affected by the proceedings may show cause against granting the prayer of the petition and may disprove any of the facts alleged in it. The court shall hear the proofs and allegations of the parties, and if no sufficient cause is shown against granting the prayer of the petition, it shall make an order for the appointment of three disinterested and competent freeholders, who reside in the county or some adjoining county where the premises to be appraised are situated, commissioners to ascertain and appraise the compensation to be made to the owners or persons interested in the real estate proposed to be taken in such county for the purposes of the company, and to fix the time and place for the first meeting of the commissioners. (*Thus amended by Laws of 1854, chap. 282.*)

Commissioners of appraisal ; commissioners to make report to Supreme Court.

§ 16. The commissioners shall take and subscribe the oath prescribed by the twelfth article of the Constitution. Any of them may issue subpoenas and administer oaths to witnesses ; a majority of them may adjourn the proceedings before them from time to time in their discretion. Whenever they meet except by the appointment of the court or pursuant to adjournment, they shall cause reasonable notice of such meetings to be given to the parties interested, or their agent or attorney. They shall view the premises described in the petition and hear the proofs and allegations of the parties, and reduce the testimony taken by them, if any, to writing and after the testimony in such case is closed, they, or a majority of them, all being present, shall, without any unnecessary delay, and before proceeding to the examination of any other claim, ascertain and determine the compensation which ought justly to be made by the company to the owners or persons interested in the real estate appraised by them ; and in fixing the amount of such compensa-

tion said commissioners shall not make any allowance or deduction on account of any real or supposed benefits which the parties interested may derive from the construction of the proposed railroad or the construction of the proposed improvement connected with such road for which such real estate may be taken. But in case such real estate shall belong to any other railroad company the commissioners, on fixing the amount of such compensation, shall fix the same at its fair value for railroad purposes. They, or a majority of them, shall also determine what sum ought to be paid to the general or special guardian or committee of an infant, idiot or person of unsound mind, or to an attorney appointed by the court to attend to the interests of any unknown owner or party in interest not personally served with notice of the proceedings, and who has not appeared for costs, expenses and counsel fees. The said commissioners shall make a report of their proceedings to the Supreme Court, with the minutes of the testimony taken by them, if any, and they shall be entitled to five dollars for services and expenses for every day they are actually engaged in the performance of their duties, to be paid by the company, except where the owners or persons interested in the real estate fail to have awarded them more than the amount of compensation offered them by the company before the appointment of commissioners, then to be paid by the said owners or persons interested, or, if not paid by them, to be paid by the company and deducted from the amount awarded. Nothing herein is to affect or apply to any action pending or proceeding begun before the 31st day of December, 1880. (*Thus amended, Laws of 1883, chap. 882.*)

Appraisal not affected by transfer of property, § 5, chap. 232, Laws 1854, at page 498 hereof.

On report being made, company to give notice; report, how confirmed.

§ 17. On such report being made by said commissioners the company shall give notice to the parties, or their attorneys, to be affected by the proceedings, according to the rules and practice of said court, at a general or special term thereof, for the confirmation of such report; and the court shall thereupon confirm such report and shall make an order containing a recital of the substance of the proceedings in the matter of the appraisal, and a description of the real estate appraised for which compensation is to be made; and shall also direct to whom the money is to be paid, or in what bank, and in what manner it shall be deposited by the company.

Further power of court, see § 5, chap. 232, Laws 1854, at page 498 hereof.

Proceedings not affected by transfer of property, § 5, chap. 232, Laws 1854, at page 498 hereof.

Order where to be recorded; its effect when the company neglects to have order recorded; real estate thus acquired for public use; appeals when heard; new appraisal.

§ 18. A certified copy of the order so to be made, as aforesaid, shall be recorded at full length in the clerk's office of the county in which the land described in it is situated, and thereupon and on the payment or deposit by the company of the sums to be paid as compensation for the land, and for costs, expenses and counsel fees, as aforesaid, and as directed by said order, with interest from the date thereof, the company shall be entitled to enter upon, take possession of and use the said land for the purposes of its corporation during the continuance of its corporate existence, by virtue of this or any other act; and all persons who have been made parties to the proceedings shall be divested and barred of all right, estate and interest in such real estate during the corporate existence of the company, as aforesaid. If the company shall neglect to have such order recorded and to make the payment or deposit, as herein provided, for the period of ten days after the date of such order, any party to such proceedings and interested therein may at his election cause a certified copy of the said order to be recorded as aforesaid, and thereupon the moneys therein directed to be paid, with interest thereon from the date of said order, shall be a debt against the company, and the same shall be a lien on such real estate, and may be enforced and collected by action at law or in equity in the Supreme Court, with costs. Except, nevertheless, the company may abandon such proceedings by filing within thirty days, after notice, in writing, of such recorded order, in the office of such clerk a notice of its determination to do so, and paying the reasonable costs and expenses of such party, to be ascertained and adjusted on motion by the court making such order.

But in case of such abandonment, the company shall not renew proceedings to acquire title to such lands without a tender or deposit in court of the amount of said award and the interest thereon. All real estate acquired by any company under and pursuant to the provisions of this act for the purposes of its incorporation, shall be deemed to be acquired for public use. Within twenty days after the confirmation of the report of the commissioners, as provided for in the seventeenth section of this act, either party may appeal, by notice in writing to the other, to the Supreme Court from the appraisal and report of the commissioners. Such appeal shall be heard by the Supreme Court at any general or special term thereof, on such notice thereof being given according to the rules and practice of said court. On the hearing of such appeal the court may direct a new appraisal before the same or new commissioners, in its discretion; the second report shall be final and conclusive on all the parties interested. If the amount of the compensation to be paid by the company is increased by the second report, the difference shall be a lien on the land appraised, and shall be paid by the company to the parties entitled to the same, or shall be deposited in the bank, as the court shall direct, and if the amount is diminished, the difference shall be refunded to the company by the party to whom the same may have been paid, and judgment therefor may be rendered by the court on the filing of the second report against the party liable to pay the same. Such appeal shall not affect the possession by such company of the land appraised, and when the same is made by others than the company, it shall not be heard except on a stipulation of the party appealing not to disturb such possession. (*Thus amended, Laws of 1876, chap. 198.*)

Adverse claims to compensation; how settled.

§ 19. If there are adverse and conflicting claimants to the money, or any part of it, to be paid as compensation for the real estate taken, the court may direct the money to be paid into the said court by the company, and may determine who is entitled to the same, and direct to whom the same shall be paid; and may, in its discretion, order a reference to ascertain the facts on which such determination and order are to be made.

Protection of unknown parties amending proceedings.

§ 20. The court shall appoint some competent attorney to appear for, and protect the rights of, any party in interest who is unknown, or whose residence is unknown, and who has not appeared in the proceedings by an attorney or agent. The court shall also have power at any time to amend any defect or informality in any of the special proceedings authorized by this act as may be necessary; or to cause new parties to be added, and to direct such further notices to be given to any party in interest as it deems proper; and also to appoint other commissioners in place of any who shall die, or refuse, or neglect to serve, or be incapable of serving.

Proceedings when title is defective; additional land, how acquired; water rights; right of way; acquiring by purchase; condemnation; limitation; proviso in case of mortgagee or receiver.

§ 21. If, at any time after an attempt to acquire title by appraisal of damages or otherwise, it shall be found that the title thereby attempted to be acquired is defective, the company may proceed anew to acquire or perfect such title in the same manner as if no appraisal had been made, and at any stage of such new proceedings the court may authorize the corporation, if in possession, to continue in possession; and if not in possession, to take possession, and use such real estate during the pendency, and until the final conclusion of such new proceedings; and may stay all actions or proceedings against the company on account thereof, on such company paying into court a sufficient sum, or giving security as the court may direct, to pay the compensation therefor when finally ascertained; and in every such case the party interested in such real estate may conduct the proceedings to a conclusion, if the company delays or omits to prosecute the same. And if at any time after the construction of any railroad operated by steam by any

company now existing, or that may hereafter be created, such company, or any company owning, operating, or leasing such railroad, or any mortgagee or mortgagees in possession of such railroad, or person or persons appointed by any court of competent authority as receiver or receivers of any such railroad, and in the possession of and operating the same, shall require, for the purposes of its incorporation, or for the purpose of running or operating any railroad so owned, leased or possessed as aforesaid, any real estate in addition to what has been already acquired for the purposes of such railroad, or shall require any further right to lands, or the use of lands, for switches, turnouts, or for filling any structures of, or for constructing, widening, or completing therewith or thereon any embankments, or the road-bed of such railroad, when thereby greater safety or permanency may be secured, and such lands shall be contiguous to such railroad, and reasonably accessible to the place where the same are to be used for such purpose or purposes, or for the flow of water occasioned by railroad embankments or structures now in use, or hereafter rendered necessary, or for any other purpose necessary to the operation of such railroad : or any right to take and convey water from any spring, pond, creek, or river to such railroad, for the uses and purposes thereof, together with the right to build or lay aqueducts or pipes for the purpose of conveying such water, and to take up, relay and repair the same ; or any right of way required for carrying away or diverting any waters, streams, or floods from such railroad, for the purpose of protecting the same, or for the purpose of preventing any embankment, excavation, or structure of such railroad from injuring or damaging the property of any person or parties who may be rendered liable to injury by such embankment, excavation or structure, as the same may have been constructed previous to such time, or may then exist ; such company, or mortgagee or mortgagees, person or persons in possession as aforesaid, may acquire such additional real estate, or any property or real estate which they now use or occupy, or right of way or other rights hereinbefore specified by purchasing the same of the person or parties owning the same, or interested therein, or to be affected thereby, and by paying to such parties such damages as they may sustain by reason thereof, if the amount of such compensation or damages can be agreed upon between such company, or mortgagee or mortgagees, person or persons in possession, and such owner or owners, or parties interested in such additional real estate ; and if such company, or mortgagee or mortgagees, person or persons in possession shall for any cause be unable to agree for the purchase of such real estate, or right of way, or other rights, or shall be unable to agree upon the sum which shall be paid to such persons or parties in satisfaction of the damages they may sustain, or if the title to any such real estate, or right of way, or other rights already acquired or attempted to be acquired, shall for any cause prove defective or imperfect, then, and in every such case, such company, or mortgagee or mortgagees, person or persons in possession of and operating as aforesaid any such railroad, may proceed to acquire or perfect title to such real estate, or right of way, or other rights, and to ascertain and appraise such damages in the manner and by the proceedings hereinbefore in this act prescribed. Nothing in this act contained shall authorize the taking of any waters that shall at the time of such taking be commonly used for domestic, agricultural or manufacturing purposes to such an extent as to injuriously interfere with such use in the future. And nothing in this act contained shall authorize any railroad corporation to acquire any such gravel lands not contiguous to its right of way, nor shall it be lawful for any railroad company, or any company herein named, to take or acquire, other than by mutual agreement, any right or easement in or to any lands or real estate owned or occupied by any other railroad corporation excepting the right to intersect or cross the tracks and lands owned or held for right of way by such other company ; such intersection and crossing to be limited to points where the same can be made without appropriating or affecting any lands owned or held for depots or gravel beds. Provided, that the mortgagee or mortgagees, receiver or receivers in possession of any railroad as aforesaid, before commencing proceedings to ascertain and appraise damages under the provisions of this act, shall present a petition to the court under whose authority they are acting, or to any court of competent authority, for permission to commence such proceedings, which petition shall set forth that such real estate, right of way, or other rights,

* So in original.

as aforesaid, described in said petition, are necessary for the operation of said railroad, or for the protection of the property in their possession, and a copy of which petition, with a notice of the time and place the same would be presented to said court, must be served on all persons whose interests are to be affected by the proceedings, at least ten days prior to the presentation of the same to said court, and no proceedings to ascertain and appraise damages, as aforesaid, shall be taken by said mortgagee or mortgagees, receiver or receivers, as aforesaid, unless they shall be duly authorized by order of said court. (*Thus amended, Laws of 1881, chap. 649.*)

See chap. 272, Laws of 1847, page 520 hereof.

Map of route of railroad to be filed before construction; notice to occupants of lands; objections to route, how made; the application to Supreme Court to be accompanied with map of proposed alterations; court to appoint commissioners to examine, who may affirm or alter route; engineer on commission to concur; determination, map and testimony to be filed; appeals; court may affirm route or adopt alteration; the pay of commissioners.

§ 22. Every company formed under this act, before constructing any part of their road into or through any county named in their articles of association, shall make a map and profile of the route intended to be adopted by such company in such county, which shall be certified by the president and engineer of the company, or a majority of the directors, and filed in the office of the clerk of the county in which the road is to be made, or in the office of register in counties where there is a register's office. The company shall give written notice to all actual occupants of the land over which the route of the road is so designated and which has not been purchased by, or given to the company, of the time and place such map and profile were filed, and that the route designated thereby passes over the land of such occupant. Any occupant or owner of land over which such route passes, feeling aggrieved by the proposed location, may, within fifteen days after receiving written notice as aforesaid, give ten days' notice in writing to such company and to the owners or occupants of lands to be affected by any proposed alteration, of the time and place of an application to a justice of the Supreme Court in the judicial district where said lands are situated by petition duly verified for the appointment of commissioners to examine the said route; such petition shall set forth the petitioner's objections to the route designated by the company, shall designate the route to which it is proposed to alter the same, and shall be accompanied by a survey, map and profile of the route as designated by the company, and of the proposed alteration thereof, copies of which petition, map, survey and profile shall be served upon the company and said owners or occupants, with the notice of the application. If the said justice shall consider sufficient cause therefor to exist, he may, after hearing such parties as shall appear, appoint three disinterested persons, one of whom must be a practical civil engineer, commissioners to examine the route proposed by the company, and the route to which it is proposed to alter the same, and, after hearing the parties, to affirm the route originally designated or adopt the proposed alteration thereof, as may be consistent with the just rights of all parties and the public, including the owners or occupants of lands upon the proposed alteration, but no alteration of the route shall be made except by the concurrence of the commissioner who is a practical civil engineer, nor shall an alteration be made which will cause greater damage or injury to lands, or materially greater length of road, than the route designated by the company would cause, nor which shall substantially change the general line adopted by the company. The determination of the commissioners shall, within thirty days after their appointment, be made and certified by them, and the certificate, with the petition, map, survey and profile, and any testimony taken before them, be filed in the office of the register of the county in counties where there is a register, otherwise in that of the county clerk. Within twenty days after the filing of such certificate any party may, by notice in writing to the others, appeal to the Supreme Court from the decision of the commissioners, which appeal shall be heard and decided at the next general term of the court held in any judicial district in which the lands of the petitioners, or any of them, are situated, for which the same can be noticed according to the rules and practice of said court. On the hearing of such appeal the court may affirm the route proposed by the company or may adopt that proposed by the petitioner. Said com

missioners shall each be entitled to three dollars per day for their expenses and services, to be paid by the person who applied for their appointment; and if the route of the road as designated by the company is altered by the commissioners, and their decision is affirmed on appeal (if an appeal be taken), the company shall refund to the applicant the amount so paid. (*Thus amended, Laws of 1871, chap. 560.*)

See chap. 19, Laws of 1851, at page 507 hereof; § 13, chap. 282, Laws of 1854, at page 500 hereof; chap. 843, Laws of 1872, page 508 hereof; chap. 560, Laws of 1871, page 505 hereof.

Directors may change route; survey; may acquire land; alteration in city or village; compensation; provide alteration when bonds have been issued.

§ 23. The directors of every company formed under this act may, by a vote of two-thirds of their whole number, at any time, alter or change the route, or any part of the route of their road, or its termini, or locate the said route, or any part thereof, or its termini in a county adjoining any county named in the articles of association, if it shall appear to them that the line can be improved thereby; and they shall make and file in the clerk's office of the proper county a survey, map and certificate of such alteration or change, and shall have the same right and power to acquire title to any lands required for the purposes of the company in such altered or changed route as if the road had been located there in the first instance; and no such alteration shall be made in any city or village after the road shall have been constructed, unless the same is sanctioned by a vote of two-thirds of the common council of said city, or trustees of said village; and in case of any alteration made in the route of any railroad after the company has commenced grading, compensation shall be made to all persons for injury so done to any lands that may have been donated to the company; nothing herein shall be construed to authorize the change of either terminus to any other county than one adjoining that in which it was previously located, nor the reduction of the amount of capital stock per mile below that now required by law. All the provisions of this act relating to the first location and to acquire title to land shall apply to every such new or altered portion of the route. Nor shall the provisions of this section authorize the alteration of the route or terminus of any railroad in any town, county or municipal corporation which has issued bonds, or any town which may be bonded, but whose bonds have not yet been issued, or subscribed for, and taken any stock or bonds in aid of the construction of such railroad without the consent in writing of, and subscribed by, a majority of the tax payers appearing upon the last assessment-roll of said town, county or municipal corporation. (*Thus amended, Laws of 1876, chap. 77.*)

See chap. 560, Laws of 1871, page 505 hereof.

Crossings and intersections; how additional land for, taken.

§ 24. Whenever the track of a railroad constructed by a company formed under this act shall cross a railroad, a highway, turnpike, or plankroad, such highway, turnpike or plankroad may be carried under or over the track, as may be found most expedient; and in cases where an embankment or cutting shall make a change in the line of such highway, turnpike or plankroad desirable, with a view to a more easy ascent or descent, the said company may take such additional lands for the construction of such road, highway, turnpike or plankroad on such new line as may be deemed requisite by the directors. Unless the lands so taken shall be purchased for the purposes aforesaid, compensation therefor shall be ascertained in the manner prescribed in this act for acquiring title to real estate, and duly made by said corporation to the owners and persons interested in such lands. The same, when so taken, shall become a part of such intersecting highway, turnpike or plankroad, in such manner and by such tenure as the adjacent parts of the same highway, turnpike or plankroad may be held for highway purposes.

State land, how acquired by company.

§ 25. The Commissioners of the Land Office shall have power to grant to any railroad company formed under this act, any land belonging to the people of this State, which may be required for the purposes of their road, on such terms as may be agreed on by them; or such company may acquire title thereto by appraisal, as in

the case of lands owned by individuals; and if any land belonging to a county or town is required by any company for the purposes of the road, the county or town officers having the charge of such land may grant such land to such company, for such compensation as may be agreed upon.

As to State salt lands, see chap. 346, Laws 1848, page 606.

As to Indian lands, see chap. 816, Laws 1886, page 502.

Title, how acquired, when trustees, guardian or committee are not authorized to sell.

§ 26. In case any title or interest in real estate required by any company formed under this act, for the purpose of its incorporation, shall be vested in any trustee not authorized to sell, release and convey the same, or in any infant, idiot, or person of unsound mind, the Supreme Court shall have power, by a summary proceeding on petition, to authorize and empower such trustee, or the general guardian or committee of such infant, idiot, or person of unsound mind, to sell and convey the same to such company, for the purposes of its incorporation, on such terms as may be just; and in case any such infant, idiot, or person of unsound mind, has no general guardian or committee, the said court may appoint a special guardian or committee for the purpose of making such sale, release or conveyance, and may require such security from such general or special guardian or committee as said court may deem proper. But before any conveyance or release authorized by this section shall be executed, the terms on which the same is to be executed shall be reported to the court, on oath; and if the court is satisfied that such terms are just to the party interested in such real estate, the court shall confirm the report, and direct the proper conveyance or release to be executed, which shall have the same effect as if executed by an owner of said land having legal power to sell and convey the same.

Weight of iron rails on grades, etc.; how to apply act.

§ 27. No company formed under this act shall lay down or use in the construction of their road any iron rail of less weight than fifty-six pounds to the lineal yard on grades of 110 feet to the mile or under, and not less than seventy pounds to the lineal yard on grades of over 110 feet to the mile, except for turnouts, sidings and switches, provided this section shall apply only to roads now being constructed or hereafter to be constructed, when the gauge of said road exceeds four feet or over. (*Thus amended, Laws of 1871, chap. 669.*)

Additional powers conferred.

§ 28. Every corporation formed under this act shall, in addition to the powers conferred on corporations in the third title of the eighteenth chapter of the first part of the Revised Statutes, have power:

See title 3, chap. 18, part 1 of the Revised Statutes, referred to in foregoing section, pages 494, 495.

May enter upon lands for purpose of survey.

1. To cause such examination and surveys for its proposed railroad to be made as may be necessary to the selection of the most advantageous route; and for such purpose, by its officers or agents and servants, to enter upon the lands or waters of any person, but subject to the responsibility for all damages which shall be done thereto.

May hold voluntary grants of real estate.

2. To take and hold such voluntary grants of real estate and other property as shall be made to it, to aid in the construction, maintenance and accommodation of its railroad; but the real estate received by voluntary grants shall be held and used for the purpose of such grant only.

May purchase, hold and use real estate; reference to Indian lands.

3. To purchase, hold and use all such real estate and other property as may be

necessary for the construction and maintenance of its railroad, and the stations and other accommodations necessary to accomplish the objects of its incorporation ; but nothing herein contained shall be held as repealing, or in any way affecting, the act entitled "An act authorizing the construction of railroads upon Indian lands," passed May 12, 1836.

See chap. 316, Laws of 1836, entitled "An act authorizing the construction of railroads upon Indian lands," referred to in above section, page 502 hereof.

Construction of road.

4. To lay out its road not exceeding six rods in width, and to construct the same ; and for the purpose of cuttings and embankments, to take as much more land as may be necessary for the proper construction and security of the road ; and to cut down any standing trees that may be in danger of falling on the road, making compensation therefor as provided in this act for lands taken for the use of the company.

May construct road across any stream, canal and highway ; bridges or obstruction prohibited ; streets in cities not to be used without consent of corporation, nor along highways without consent.

5. To construct their road across, along or upon any stream of water, water-course, street, highway, plankroad, turnpike, or across any of the canals of this State, which the route of its road shall intersect or touch, but the company shall restore the stream or water-course, street, highway, plankroad and turnpike thus intersected or touched to its former state, or to such state as not unnecessarily to have impaired its usefulness. Every company formed under this act shall be subject to the power vested in the Canal Commissioners by the seventeenth section of chapter 276 of the Session Laws of 1834. Nothing in this act contained shall be construed to authorize the erection of any bridge, or any other obstruction across, in or over any stream or lake navigated by steam or sail boats, at the place where any bridge or other obstructions may be proposed to be placed ; nor to authorize the construction of any railroad not already located in, upon or across any streets in any city, without the assent of the corporation of such city ; nor to authorize any such railroad company to construct its road upon and along any highway, without the order of the Supreme Court of the judicial district in which said highway is situated, made at a special term of said court, after at least ten days' notice in writing of the intention to make application for said order, shall have been given to the commissioners of highways of the town in which said highway is situated. (*Thus amended, Laws of 1880, chap. 188.*)

See § 17, chap. 276, Laws of 1834, referred to in foregoing section, page 497 hereof. Damages for crossing turnpike or plankroad, § 4, chap. 19, Laws of 1851, page 508 hereof. See chap. 300, Laws of 1835, and chap. 255, Laws of 1855, at page 501 hereof. See chap. 140, Laws of 1882, page 561 hereof ; § 17, chap. 282, Laws 1884, page 500 hereof. See, also, chap. 478, Laws of 1855, page 501 hereof, and chap. 62, Laws of 1853, page 549 hereof.

Right to cross, intersect, etc., other railroads ; proceedings in case two corporations cannot agree ; companies shall receive from each other and forward freight.

6. To cross, intersect, join and unite its railroad with any other railroad before constructed, at any point on its route and upon the ground of such other railroad company, with the necessary turn-outs, sidings and switches, and other conveniences in furtherance of the objects of its connection. And every company whose railroad is or shall be hereafter intersected by any new railroad shall unite with the owners of such new railroad in forming such intersections and connections and grant the facilities aforesaid ; and if the two corporations cannot agree upon the amount of compensation to be made therefor, or the line or lines, the grade or grades, points and manner of such crossing and connections, the same shall be ascertained and determined by commissioners, one of whom must be a practical civil engineer, to be appointed by the courts, as is provided in this act in respect to acquiring title to real estate ; and said commissioners shall have full power to determine whether the crossing or crossings of any railroad before constructed shall be beneath, at or above the existing grade of any such railroad, and upon the route designated on the map of the company seeking the crossing required to be filled by section twenty-two of this act, or otherwise. And all companies whose railroads are or shall hereafter be crossed, intersected or joined as aforesaid shall

receive from each other and forward to their destination all goods, merchandise and other property intended for points on their respective roads with the same dispatch and at a rate of freight not exceeding the local tariff rate charged for similar goods, merchandise and other property received at and forwarded from the same point for individual and other corporations. (*Thus amended, Laws of 1880, chap. 583, § 1.*)

Nothing in this act contained shall apply to any street surface railroad in the city of New York (Laws of 1880, chap. 583, § 2).
See also chap. 222, Laws of 1847, page 496 hereof.

Conveyance of passengers and property.

7. To take and convey persons and property on their railroad by the power or force of steam or of animals, or by any mechanical power, and to receive compensation therefor.

Buildings and stations.

8. To erect and maintain all necessary and convenient buildings, stations, fixtures and machinery for the accommodation and the use of their passengers, freights and business.

Time and manner of transportation, not to be construed as increasing fare.

9. To regulate the time and manner in which passengers and property shall be transported, and the compensation to be paid therefor; but such compensation for any passenger and his ordinary baggage shall not exceed three cents per mile. The re-enactment of this provision shall not be construed as increasing the rate of passenger fare which any railroad of this State is now authorized to charge.

As to extortion, see chap. 185, Laws of 1857, at page 593 hereof.

As to roads not exceeding fifteen miles in length, see chap. 470, Laws of 1881, at page 562 hereof.

As to narrow gauge roads, see § 6, chap. 560, Laws of 1871, page 506 hereof; also chap. 336, Laws of 1883, page 507 hereof.

May borrow money necessary for completion or operation of road.

10. From time to time to borrow such sums of money as may be necessary for completing and finishing or operating their railroad, and to issue and dispose of their bonds for any amount so borrowed, and to mortgage their corporate property and franchises to secure the payment of any debt contracted by the company for the purpose aforesaid; and the directors of the company may confer on any holder of any bond issued for money borrowed as aforesaid the right to convert the principal due or owing thereon into stock of said company, at any time not less than two nor more than twelve years from the date of the bond, under such regulations as the directors may see fit to adopt; provided, however, that if the already authorized capital stock of such corporation, at the time such bonds may be issued, shall not be sufficient to meet such conversion when made, the stockholders shall, before such issue and in the manner hereinbefore provided, authorize an increase of capital stock to an extent sufficient to meet the deficiency. (*Sub. 7, 8, 9 and 10, thus amended by Laws of 1880, chap. 183.*)

Not necessary to file as chattel mortgage, see chap. 779, Laws of 1883, at page 584 hereof.

Canal tolls; returns, how made; forfeiture, how prosecuted.

§ 29. Repealed.

See chap. 497, Laws of 1851, entitled "An act to abolish tolls on railroads."

Conductors and servants to wear badges.

§ 30. Every conductor, baggage master, engineer, brakeman or other servant of any railroad corporation employed in a passenger train, or at stations for passengers, shall wear upon his hat or cap a badge, which shall indicate his office, and the initial letters of the style of the corporation by which he is employed. No conductor or collector, without such badge, shall be entitled to demand or receive from any passenger any fare or ticket, or to exercise any of the powers of his office; and no officer or servant without such badge shall have authority to meddle or interfere with any passenger, his baggage or property.

Annual report.

§ 31. Every railroad corporation formed under this act shall make an annual report to the State Engineer and Surveyor of its operations for the year ending with the thirtieth day of September, and of its condition on that day; which report shall be verified by the oaths of the president or treasurer and the general manager or acting superintendent of its operations, and shall be filed in the office of the State Engineer and Surveyor by the twentieth day of December in each year, and shall state :

TABLE A.

STOCK AND DEBT.

1. Capital stock as authorized by charter.
2. Capital stock as since fixed.
3. Capital stock subscribed.
4. Capital stock paid in.
5. Funded debt.
6. Unfunded debt.
7. Total funded and unfunded debt.
8. Average rate per annum of interest on funded debt.
The several amounts shall be stated in two columns, one of which shall be headed and contain "As by last report," and the other "By this report."
9. Number of shares of ordinary stock.
10. Number of shares of preferred stock
11. Total shares of stock, of par value of \$ per share.
12. Number of stockholders.
13. A tabular statement of the funded debt as "by this report" shall be given, showing
 - (1) Each kind of bonds or obligations.
 - (2) If and how secured.
 - (3) Date of issue.
 - (4) When due.
 - (5) Rate of interest.
 - (6) Amount of authorized issue.
 - (7) Amount actually issued.
 - (8) The total amounts.
14. The amount of unfunded debt as "by this report," shall be stated under the following classification :
 - (1) Notes and acceptances.
 - (2) Pay-rolls and operating expenses unpaid.
 - (3) Amounts due other railroad corporations.
 - (4) Interest due and unpaid.
 - (5) Dividends unpaid.
 - (6) Open accounts.
 - (7) Other items (if any).

TABLE B.

COST OF ROAD AND EQUIPMENT.

15. Grading and masonry.
16. Bridges.
17. Superstructure, including rails.
18. Passenger and freight stations, buildings and fixtures.
19. Engine and car-houses, machine shop, machinery and fixtures.
20. Land, land damages and fences.
21. Locomotive engines and fixtures.
22. Passenger and baggage cars.
23. Freight and other cars.
24. Engineering and agencies.

25. Any other items entering into the cost or value.

26. Total.

The several amounts shall be extended into three columns; the first to be headed and to contain "Amount of last report;" the second, "Amount since charged;" and the third, "Amount by this report."

27. A statement shall be given showing briefly (by numbers, by quantities, or by descriptions) the additions or betterments made to the road and equipment, representing the several amounts that may appear in the column headed "Amount since charged."

TABLE C.

CHARACTERISTICS OF ROAD.

28. Main line of road (stating termini).
29. Main line laid.
30. Branches owned.
31. Lines leased or operated.
32. Total main line, branches owned, and lines leased or operated.
33. Second track on main line.
34. Second track on branches owned, or lines leased or operated.
35. Total second track.
36. Third track on main line.
37. Fourth track on main line.
38. Third and fourth track on branches owned, or on lines leased or operated.
39. Sidings and turnouts on main line.
40. Sidings and turnouts on branches owned, and on lines leased or operated.
41. Total sidings.
42. Aggregate of all tracks on main line, branches owned, and lines leased or operated, including all sidings and turnouts.
The amounts shall be extended into three columns; the first headed and to contain "Length in this State;" the second "Length out of this State;" and the third "Total length."
43. A tabular statement shall be given, showing the termini of each branch, and of each line leased or operated, its length, and the length of double track, including sidings and turnouts on each.
44. Gauge of track.
45. Miles of steel rails (reduced to single track) in main line.
46. Same in branches owned, and lines leased or operated.
47. Weight per yard of steel rails in main line.
48. Weight per yard of iron rails in main line.
49. Weight per yard of steel rails in branches.
50. Weight per yard of iron rails in branches.
51. Length in feet of iron bridges on all lines.
52. Length in feet of wooden bridges on all lines.
53. Length in feet of pile or trestle work in wood on all lines.
54. Miles of telegraph wire owned and operated.

TABLE D.

EQUIPMENT.

55. Number of locomotive engines for passenger service.
56. Number of locomotive engines for freight service.
57. Number of locomotive engines for switching service.
58. Total number of locomotive engines owned.
59. Average weight (with tender and fuel and water) of each kind of locomotive engines.
60. Number of engine-houses.
61. Aggregate number of stalls in same.
62. Number of first-class passenger cars.
63. Number of second-class and emigrant passenger cars.
64. Number of baggage, mail and express cars.

65. Number of freight and other cars owned, namely :
- (1) Box freight.
 - (2) Platform or flat.
 - (3) Cattle.
 - (4) Oil.
 - (5) Coal.
 - (6) Service.
 - (7) Other kinds.
66. Number of above freight cars with eight wheels.
67. Number of above freight cars with four wheels.
68. Number of locomotive engines controlled by the corporation for use, but leased instead of owned.
69. Number of freight cars controlled by the corporation for use, but leased instead of owned.

TABLE E.

MISCELLANEOUS.

70. Number of machine and car shops.
71. Number of elevators or grain-houses.
72. Aggregate capacity of same in bushels.
73. Number of freight or cattle yards of two acres or more in area.
74. Aggregate area of same in acres.
75. Miles of track laid in same.
76. Average number of persons directly employed by the company during the year.
77. Aggregate amount of salaries and wages paid to same for the year.

TABLE F.

DOINGS OF THE YEAR IN TRANSPORTATION AND TOTAL MILES RUN.

78. Number of miles run by passenger trains.
79. Number of miles run by freight trains.
80. Number of passengers (all classes) carried in cars.
81. Number of tons, of 2,000 pounds, of freight carried in cars.
82. Number of miles traveled by passengers, or number of passengers carried one mile ("total movement of passengers").
83. Number of miles one ton of freight was carried, or number of tons carried one mile ("total movement of freight").
84. Average rate of speed (miles per hour) adopted by ordinary passenger trains, including stops.
85. Rate of speed of same when in motion.
86. Average rate of speed adopted by express passenger trains, including stops.
87. Rate of speed of same when in motion.
88. Average rate of speed adopted by freight trains, including stops.
89. Rate of speed of same when in motion.

TABLE G.

DESCRIPTION OF FREIGHT MOVED.

90. Products of the forest (tons).
91. Products of animals.
92. Vegetable food.
93. Other agricultural products.
94. Manufactures.
95. Merchandise.
96. Other articles.
97. Total number of tons.

TABLE H.

AMOUNTS MOVED OF CERTAIN SPECIFIED ARTICLES INCLUDED IN FOREGOING DESCRIPTION.

- 98. Flour (tons).
- 99. Grain.
- 100. Live stock.
- 101. Fresh or pickled meats and provisions.
- 102. Petroleum and other oils.
- 103. Lumber.
- 104. Pig and bar iron and steel, and iron and steel rails.
- 105. Iron and other ores.
- 106. Coal.

TABLE I.

DIRECTION AND DESTINATION OF FREIGHT MOVED.

- 107. Tons of through, going east and south.
- 108. Tons of through, going west and north.
- 109. Total tons through.
- 110. Tons of way, going east and south.
- 111. Tons of way, going west and north.
- 112. Total tons way.

TABLE J.

DESTINATION OF PASSENGERS CARRIED.

- 113. Number of through passengers.
- 114. Number of way passengers.

TABLE K.

AVERAGE RATE CHARGED PER TON PER MILE ON FREIGHT.

- 115. On first class.
- 116. On second class.
- 117. On third class.
- 118. On fourth class.
- 119. On all other classes.
- 120. Average on all classes.
The amounts shall be stated in two columns; one headed and to contain "Rate on through;" and the other "Rate on way;" and the "Average on all classes" shall be stated with reference to the respective amounts of each class actually moved.
- 121. General average of through and way.

TABLE L.

AVERAGE RATES CHARGED FOR PASSENGERS PER MILE.

- 122. For first class.
- 123. For second class.
- 124. For emigrants.
- 125. Average for all classes.
The amounts shall be stated in two columns; one headed and to contain "Rate for through;" and the other "Rate for way;" and the "Average for all classes" shall be stated with reference to the number of each class actually carried.
- 126. General average for through and way.

TABLE M.

EXPENSES OF MAINTAINING ROAD AND REAL ESTATE.

- 127. Repairs of road-bed and railway other than cost of rails.
- 128. Repairs of bridges.
- 129. Repairs of telegraph lines.
- 130. Cost of rails used in repairs.
- 131. Tons of steel rails used in repairs.
- 132. Length of same (miles and fractions).
- 133. Tons of iron rails used in repairs.
- 134. Length of same (miles and fractions).
- 135. Repairs of buildings.
- 136. Repairs of fences and gates.
- 137. Taxes on real estate.
- 138. Total expenses of maintaining road and real estate.

TABLE N.

EXPENSE OF REPAIRS OF MACHINERY AND CARS.

- 139. Repairs of engines and tenders.
- 140. Repairs of passenger and baggage cars.
- 141. Repairs of freight cars.
- 142. Repairs of tools and machinery in shops.
- 143. Incidental expenses, including oil, fuel, clerks, watchmen, and other expenses about shops.
- 144. Total expenses of repairs of machinery and cars.

TABLE O.

EXPENSES OF OPERATING THE ROAD.

- 145. Office expenses, stationery, and other expenses about office.
- 146. Agents and clerks.
- 147. Labor in loading and unloading freight.
- 148. Porters, watchmen, flagmen and switchmen.
- 149. Fuel and water station attendance.
- 150. Conductors, baggagemen and brakemen.
- 151. Enginemen and firemen.
- 152. Fuel, cost and labor in preparing for use.
- 153. Oil and other lubricants and waste.
- 154. Loss and damage of goods and babbage.*
- 155. Damages for injuries of persons.
- 156. Damages to property, including damages by fire and cattle killed on road.
- 157. General superintendence, or salaries of general officers.
- 158. Hire of cars.
- 159. All other items.
- 160. Total expenses of operating the road.

The amount stated under the several subdivisions of "expenses of maintaining road and real estate," "expenses of repairs of machinery and cars," and "expenses of operating the road," are to be those chargeable against the year's business, and are to be stated without reference (other than the weight and length of rails) to the sums actually paid therefor during the year. The amounts shall be tabulated and divided between "passenger transportation" and "freight transportation," and so far as items do not pertain specifically to either one particular kind of transportation, the division shall be made in the ratio of the "total movements" of passengers and freight.

* So in original.

TABLE P.

AMOUNTS PAID FOR CERTAIN SPECIFIC PURPOSES INCLUDED IN FOREGOING.

- 161. Stationery and printing.
- 162. Advertising.
- 163. Legal expenses and counsel fees.
- 164. Insurance.
- 165. Rents.
- 166. Tolls.
- 167. Contributions and subscriptions.

TABLE Q.

TRANSPORTATION EXPENSES FOR THE YEAR.

- 168. Expenses of maintaining road and real estate (Table M).
 - 169. Expenses of repairs of machinery and cars (Table N).
 - 170. Expenses of operating the road (Table O).
 - 171. Total transportation expenses.
- The division between "passenger transportation" and "freight transportation," hereinbefore provided for, shall be brought forward with the subdivisions of "transportation expenses," and the resulting division of "transportation expenses" shall be shown.

TABLE R.

RESULT OF THE BUSINESS OF THE YEAR.

The earnings are to be stated without reference to the sums actually received during the year.

- 172. Earnings.
 - (1) From passengers.
 - (2) From freight.
 - (3) From mails.
 - (4) From rents.
 - (5) From other sources (in detail).
 - (6) Total earnings.
- 173. Charges against earnings.
 - (1) Transportation expenses (171).
 - (2) Interest.
 - (3) Rentals of leased lines.
 - (4) Dividends — date, and rate per centum.
 - (5) Other items (in detail).
 - (6) Total charges against earnings.
- 174. Resulting surplus (or deficiency) for the year.

TABLE S.

"INCOME" OR "PROFIT AND LOSS" ACCOUNT.

- 175. Balance, surplus (or deficiency) from previous year.
 - 176. Surplus (or deficiency) for this year, as shown by table R.
 - 177. Any other items of gain or loss (to be added or deducted).
 - 178. Balance, surplus (or deficiency) now.
- This balance of "income," or "profit and loss," must be that which appears on the proper side of the "balance sheet" hereinafter provided for.

TABLE T.

BALANCE SHEET, AT THE END OF YEAR.

- 179. The "balance sheet" must be tabulated, and contain on the one side a statement of the assets of the company at the close of the year, as follows:

- (1) Cost of road and equipment, as shown "by this report" in Table B.
- (2) Cost of other lines owned, which may not have been included in preceding; stating each line separately.
- (3) Permanent investment (in detail).
- (4) Cash on hand.
- (5) Cash assets (classified).
- (6) Due from other railroad corporations.
- (7) Fuel and supplies on hand.
- (8) Sinking fund (if any).
- (9) Other assets (classified and in detail).

And on the other side a statement of the liabilities of the company at the same time, as follows:

- (1) Capital stock (as "by this report" in Table A).
- (2) Funded debt (as "by this report" in Table A).
- (3) Unfunded debt (as "by this report" in Table A).
- (4) Other liabilities classified.

The balance of "income," or "profit and loss," must appear on the side on which it may fall according to whether it be "surplus" or deficiency, and the two sides of the "balance sheet" must then be equal in footing.

The "balance sheet" in each report, after the first one shall have been made under the provisions of this act, shall be tabulated with double columns on each side; in one of which columns, properly headed, shall appear the amounts at the end of the year for which such report is made, and in the other the amounts of the corresponding items as they appear in the report for the previous year.

180. The number of persons injured in life or limb, and the cause of the injury, and whether passengers or persons employed, and whether any such accidents have arisen from carelessness or negligence of any persons in the employment of the corporation, and whether such persons are retained in the service of the corporation.

181. The names and residences of the directors of the corporation.

182. The names and official addresses of the executive and general officers of the corporation.

183. It shall be the duty of each corporation to transmit to the State Engineer and Surveyor the following maps, profiles and drawings exhibiting the characteristics of their roads; the map to show the length and direction of each straight line, and the length and radius of each curve; also the point of crossing of each town and county line, and the length of line in each town and county, accurately determined by measurements to be taken after the completion of the road. The profiles to be on the map, and shall show the grade line and surface of ground in the usual method, also the elevation of grades above tides at each change in the inclination thereof. The maps and profile to be made on a scale of 500 feet to one-tenth of a foot; vertical scale of profiles to be 100 feet to one-tenth of a foot. For all roads or parts of roads now done, or in operation, and for which such maps and profiles have not already been returned, they shall be returned on or before the first day of January next; and for all roads now in progress, or which may hereafter be constructed, the said maps and profiles shall be returned within three months after the same or any portion thereof shall be in use.

184. It shall be the duty of the State Engineer and Surveyor to arrange the information contained in such report in tabular form, and prepare the same, together with the said reports, in a single document, for printing, for the use of the Legislature, and report the same to the Legislature as early as may be practicable in each year.

185. The provisions of this section shall apply to all existing railroad corporations; and the report of the said existing railroad corporations, made in pursuance of the provisions of this section, shall be deemed to be a full compliance with any existing law or resolution requiring annual reports to be made by such corporations, or either of them. (*Thus amended, Laws of 1880, chap. 575.*)

As to power of Board of Railroad Commissioners to prescribe form of report, see chap. 383, Laws of 1882, § 10, page 572 hereof.
See, also, chap. 844, Laws of 1869, page 517 hereof; as to Street Railroads, see chap. 906, Laws of 1867, page 563 hereof.

Penalty for not making report.

§ 83. Any railroad corporation which shall neglect to make the report, as is

provide* in the preceding section, shall be liable to a penalty of two hundred and fifty dollars, and an additional penalty of twenty-five dollars for each day after the first day of December, on which they shall neglect to file said report, as provided in said section, to be sued for in the name of the people of the State of New York, for their use. (*Thus amended, Laws 1887, chap. 906.*)

Legislature may alter or reduce rate of freight, fare, etc.

§ 33. The Legislature may, when any such railroad shall be opened for use, from time to time alter or reduce the rate of freight, fare or other profits upon such roads; but the same shall not, without the consent of the corporation, be so reduced as to produce with said profits less than ten per centum per annum on the capital actually expended; nor unless on an examination of the amounts received and expended, to be made by the "Board of Railroad Commissioners," they shall ascertain the net income derived by the company from all sources for the year then last past shall have exceeded an annual income of ten per cent upon the capital of the corporation actually expended. (*Thus amended, Laws of 1883, chap. 381.*)

Mails.

§ 34. Any such corporation shall, when applied to by the Postmaster-General, convey the mails of the United States on their road or roads respectively; and in case such corporations shall not agree as to the rate of transportation therefor, and as to the time, rate of speed, manner and condition of carrying the same, it shall be lawful for the Governor of this State to appoint three commissioners, who or a majority of them, after fifteen days' notice in writing of the time and place of meeting to the corporation, shall determine and fix the prices, terms and conditions aforesaid; but such price shall not be less for carrying said mails in the regular passenger trains than the amount which such corporation would receive as freight on a like weight of merchandise transported in their merchandise trains, and a fair compensation for the post-office car. And in case the Postmaster-General shall require the mail to be carried at other hours, or at higher speed than the passenger trains are run, the corporation shall furnish an extra train for the mail, and be allowed an extra compensation for the expenses, and wear and tear thereof, and for the service, to be fixed as aforesaid.

See § 17, chap. 215, Laws of 1846, at page 519 hereof.

Passengers refusing to pay fare.

§ 35. If any passenger shall refuse to pay his fare it shall be lawful for the conductor of the train and the servants of the corporation to put him and his baggage out of the cars, using no unnecessary force, at any usual stopping place, or near any dwelling-house, as the conductor shall elect, on stopping the train.

Notice of times of starting, etc.; preferences forbidden.

§ 36. Every such corporation shall start and run their cars for the transportation of passengers and property at regular times to be fixed by public notice, and shall furnish sufficient accommodations for the transportation of all such passengers and property as shall, within a reasonable time previous thereto, be offered for transportation at the place of starting, and at the junctions of other railroads and at the usual stopping places established for receiving and discharging way passengers and freights for that train, and shall take, transport and discharge such passengers and property at and from and to such places on the due payment of the fare or freight legally authorized therefor. No preference for the transaction of business shall be granted by said railroad corporation to any one of two or more companies or associations competing in the business of transporting property for themselves or for others, upon the railroad owned or operated by such corporation, either upon the cars or in the depots or buildings, or upon the grounds of such corporation; and whenever the railroad of such corporation at or near the same place connects with or is intersected by any other railroad, such corporation shall fairly and impartially grant and afford to each of such compet-

* So in original.

ing companies or associations equal terms of accommodation, privileges and facilities in the transportation of property and freight to and upon such connecting or intersecting railroad, and shall also grant and afford to each of such competing companies or associations, and to the officers, agents and employees thereof equal facilities in the interchange and use of express, freight and other cars, so far as may be necessary to accommodate the business of each of such competing companies or associations, and every railroad corporation shall be liable to the party aggrieved in an action for damages for any neglect or refusal in the premises. The provisions of this section shall apply to all existing railroad corporations. (*Thus amended, Laws of 1867, chap. 49.*)

See § 9, chap. 270, Laws of 1847, at page 512, as to liability of connecting railroads for freight and as common carriers.

Baggage arrangement; checks to be given; penalty for refusal.

§ 37. A check shall be affixed to every parcel of baggage, when taken for transportation, by the agent or servant of such corporation, if there is a handle, loop or fixture so that the same can be attached upon the parcel or baggage so offered for transportation, and a duplicate thereof given to the passenger or person delivering the same on his behalf; and if such check be refused on demand, the corporation shall pay to such passenger the sum of ten dollars, to be recovered in a civil action; and, further, no fare or toll shall be collected or received from such passenger, and if such passenger shall have paid his fare, the same shall be refunded by the conductor in charge of the train, and on producing said check, if his baggage shall not be delivered to him, he may himself be a witness in any suit brought by him, to prove the contents and value of said baggage.

As to checks for baggage, weight of baggage, etc., see chap. 270, Laws of 1847, § 8, page 519 hereof, chap. 273, Laws of 1847, § 8, at page 521 hereof, and chap. 300, Laws of 1837, at pages 523, 524; also chap. 573, Laws of 1868, page 518 hereof.

Passenger trains, how formed; penalty.

§ 38. In forming a passenger train, baggage, freight, merchandise, or lumber cars shall not be placed in rear of the passenger car; and if they, or any of them, shall be so placed, the officer or agent who so directed, or knowingly suffered such arrangement, and the conductor of the train, shall be deemed guilty of a misdemeanor, and be punished accordingly.

§ 39. Repealed. (*Sec. 18, chap. 282, Laws of 1854.*)

Sign-boards at road crossings; size of inscription; proviso.

§ 40. Every such corporation shall cause boards to be placed, well supported by posts or otherwise, and constantly maintained across each traveled public road or street where the same is crossed by the railroad, on the same level. Said boards shall be elevated so as not to obstruct the travel, and to be easily seen by travelers; and on each side of such boards shall be painted in capital letters, of at least the size of nine inches each, the words, "Railroad crossing, look out for the cars." But this section shall not apply to streets in cities or villages, unless the corporation shall be required to put up such boards by the officers having charge of such streets.

As to ringing bell and blowing whistle at street or highway crossing, see § 7, chap. 283, Laws of 1854, at page 496 hereof.

Punishment of railroad employees for intoxication; punishment in case of death or injury of persons by reason of neglect occasioned thereby.

§ 41. If any person employed or who shall be employed upon the railroad of any such corporation as engineer, conductor, baggage-master, brakeman, switchman, fireman, bridge-tender, flagman, signalman, or having charge of the regulating or running of trains upon said railroad in any manner whatsoever, be intoxicated while engaged in the discharge of such duties, he shall, upon conviction thereof, be deemed guilty of a misdemeanor, and shall be punishable for each offense by a fine not exceeding one hundred dollars or by imprisonment in a county jail for a term not exceeding six months, in the discretion of the court

having cognizance of the offense. And if any person so employed as aforesaid by any such corporation shall, by reason of such intoxication, do any act or neglect any duty, which act or neglect shall cause the death or injury to any person or persons, he shall, upon conviction thereof, be punishable by imprisonment in the county jail for a term of not less than six months, or in the State prison for a term not exceeding five years, in the discretion of the court having cognizance of the offense. (*Thus amended, Laws 1871, chap. 560.*)

As to age of employees, see chap. 246, Laws of 1865, page 594.

As to uniform of employees, see § 1, chap. 483, Laws of 1867, at pages 595, 596 hereof.

As to qualification of engineers, see Laws of 1870, chap. 636, at page 596 hereof.

See Penal Code provisions as to employee, §§ 362, 193, 418, 419, 420, 421, 422, at page 612 hereof.

Persons injuring railroad property; how punished.

§ 43. If any person or persons shall willfully do or cause to be done any act or acts whatever, whereby any building, construction or work of any railroad corporation, or any engine, machine or structure, or any matter or thing appertaining to the same, shall be stopped, obstructed, impaired, weakened, injured or destroyed, the person or persons so offending shall be guilty of a misdemeanor, and shall forfeit and pay to the said corporation treble the amount of damages sustained by means of such offense.

As to trespass upon or injury to railroad property, see Penal Code, §§ 487, subd. 4, 488, 498, 503, 645, 656, 688, at pages 609, 610, and 611, hereof; also chap. 261, Laws of 1871, at page 596 hereof.

Penalties; how sued for.

§ 43. All penalties imposed by this act may be sued for in the name of the people of the State of New York; and if such penalty be for a sum not exceeding one hundred dollars, then such suit may be brought before a justice of the peace, and may be commenced by serving a summons on any director of such company.

As to suits for penalties, see Code of Criminal Procedure, §§ 675 to 682; pp. 607, 608, hereof.

Fencing; penalty for driving animals on railroads; unlawful to walk upon track.

§ 44. Every corporation formed under this act shall erect and maintain fences on the sides of their road, of the height and strength of a division fence required by law, with openings or gates or bars therein, and farm crossings of the road for the use of the proprietors of lands adjoining such railroad; and also construct and maintain cattle-guards at all road crossings, suitable and sufficient to prevent cattle and animals from getting on to the railroad. Until such fences and cattle-guards shall be duly made, the corporation and its agents shall be liable for all damages which shall be done by their agents or engines to cattle, horses, or other animals thereon; and after such fences and guards shall be duly made and maintained, the corporation shall not be liable for any such damages, unless negligently or willfully done; and if any person shall ride, lead or drive any horse or other animal upon such road, and within such fences and guards, other than at farm crossings, without the consent of the corporation, he shall, for every such offense, forfeit a sum not exceeding ten dollars, and shall also pay all damages which shall be sustained thereby to the party aggrieved. It shall not be lawful for any person, other than those connected with or employed upon the railroad, to walk along the track or tracks of any railroad, except where the same shall be laid along public roads or streets.

See § 3, chap. 233, Laws of 1864, at page 499. As to owner fencing, see § 3, same at page 499.

Maps to be filed with State Engineer and Surveyor and in county clerk's offices; scale of maps.

§ 45. Every corporation shall, within a reasonable time after their road shall be constructed, cause to be made:

A map and profile thereof, and of the land taken or obtained for the use thereof, and file the same in the office of the State Engineer and Surveyor; and also like maps of the parts thereof located in different counties, and file the same in the offices for recording deeds in the county in which such parts of said road shall be.

Every such map shall be drawn on a scale, and on paper, to be designated by the State Engineer and Surveyor, and certified and signed by the president or engineer of such corporation.

Duty of passengers.

§ 46. In case any passenger on any railroad shall be injured while on the platform of a car, or on any baggage, wood, or freight car, in violation of the printed regulations of the company posted up at the time in a conspicuous place inside of its passenger cars then in the train, such company shall not be liable for the injury; provided such company at the time furnished room inside its passenger cars sufficient for the proper accommodation of the passengers.

Road when to be commenced and finished.

§ 47. If any corporation formed under this act shall not, within five years after its articles of association are filed and recorded in the office of the Secretary of State, begin the construction of its road, and expend thereon ten per cent on the amount of its capital, or shall not finish its road and put it in operation in seven years from the time of filing its articles of association as aforesaid, its corporate existence and powers shall cease.

This extension of time shall apply to all corporations whose articles of association have been filed within five years before the passage of this act. (*Thus amended, Laws of 1864, chap. 562.*)

As to extension of time, see Laws of 1867, chap. 775, at page 508 hereof; also chap. 506, Laws 1875, at page 508 hereof; also chap. 406, Laws of 1882, at page 508 hereof.

Legislative power to dissolve.

§ 48. The Legislature may at any time annul or dissolve any incorporation formed under this act; but such dissolution shall not take away or impair any remedy given against any such corporation, its stockholders or officers for any liability which shall have been previously incurred.

See Const. State of N. Y., art. 8, § 1, at page 606 hereof.

What sections of this law applicable to existing corporations.

§ 49. All existing railroad corporations within this State shall respectively have and possess all the powers and privileges contained in this act; and they shall be subject to all the duties, liabilities and provisions not inconsistent with the provisions of their charter, contained in sections 9, 13, 14, 15, 16, 17, 18, 19, 20, 21, 23, 24, 25, 26, 27, 28 (except subdivision 9), 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, of this act.

General repeal.

§ 50. The act entitled "An act to authorize the formation of railroad corporations," passed March 26, 1848, and the acts amending the same, are hereby repealed; but all railroad companies formed under said act are hereby continued in existence in the same manner as if said acts were not repealed; and such companies shall be subject to all the provisions, and shall have the same powers, rights and privileges, and be subject to the same duties as if they had been incorporated under this act; and the time limited by said act for the expenditure of ten per cent of their capital stock is hereby extended two years from the passage of this act; and the time limited in said section of said law for their completion is hereby extended to five years from the passage of this act; and also the time for completing any railroad organized previous to March 27, 1848, whose road was under contract prior to February 1, 1850, to be completed within the time prescribed by its charter, is hereby extended for one year.

New York and Erie railroad.

§ 51. Nothing in this act contained shall authorize or permit the New York and Erie Railroad Company to abandon the use of their road in the county of Rockland, east of Suffern's depot.

REVISED STATUTES.

TITLE 3, CHAPTER 18, PART 1, REFERRED TO IN SECTION 1 OF THE
GENERAL RAILROAD ACT.**General powers.**

SECTION 1. Every corporation, as such, has power:

1. To have succession by its corporate name for the period limited in its charter, and when no period is limited perpetually;
2. To sue and be sued, complain and defend, in any court of law or equity;
3. To make and use a common seal, and alter the same at pleasure;
4. To hold, purchase and convey such real and personal estate as the purposes of the corporation shall require, not exceeding the amount limited in its charter. [Any corporation which shall have sold and conveyed any part of its real estate may, notwithstanding any restriction in its charter, purchase, take and hold, from time to time, any lands adjacent to those already held by it; provided the Supreme Court shall authorize such purchase, taking and holding upon the application of such corporation, and on being satisfied that the value of all lands proposed to be so purchased shall not exceed that of lands sold and conveyed by the said corporation within the three years next preceding such application.] (§ 1, chap. 290, Laws of 1882.)
5. To appoint such subordinate officers and agents as the business of the corporation shall require, and to allow them a suitable compensation.
6. To make by-laws not inconsistent with any existing law, for the management of its property, the regulation of its affairs, and for the transfer of its stock.

In what corporations to vest.

§ 2. The powers enumerated in the preceding section shall vest in every corporation that shall hereafter be created, although they may not be specified in its charter or in the act under which it shall be incorporated.

What other powers to be possessed.

§ 3. In addition to the powers enumerated in the first section of this title, and to those expressly given in its charter, or in the act under which it is or shall be incorporated, no corporation shall possess or exercise any corporate powers, except such as shall be necessary to the exercise of the powers so enumerated and given.

Exercise of banking powers prohibited.

§ 4. No corporation created, or to be created, and not expressly incorporated for banking purposes, shall, by any implication or construction, be deemed to possess the power of discounting bills, notes or other evidences of debt, of receiving deposits, of buying gold and silver bullion, or foreign coins, of buying and selling bills of exchange, or of issuing bills, notes, or other evidences of debt, upon loan, or for circulation as money.

Liability of stockholders.

§ 5. Where the whole capital of a corporation shall not have been paid in, and the capital paid shall be insufficient to satisfy the claims of its creditors, each stockholder shall be bound to pay, on each share held by him, the sum necessary to complete the amount of such share, as fixed by the charter of the company, or of such proportion of that sum as shall be required to satisfy the debts of the company.

Quorum.

§ 6. When the corporate powers of any corporation are directed by its charter to be exercised by any particular body, or number of persons, a majority of such

body, or persons, if it be not otherwise provided in the charter, shall be a sufficient number to form a board for the transaction of business; and every decision of a majority of the persons duly assembled as a board shall be valid as a corporate act.

Forfeiture for non-user; not applicable to railroads incorporated under the general act.

§ 7. If any corporation hereafter created by the Legislature shall not organize and commence the transaction of its business within one year from the date of its incorporation, its corporate powers shall cease.

The seventh section not to apply in certain cases.

[The seventh section of title 3, chapter 18 of the first part of the Revised Statutes shall not be so construed as to apply to any act for incorporating a railroad company which has, or shall have in its own provisions the terms and times in which it shall be forfeited for non-user.] (§ 1, *chap. 153, Laws of 1846.*)

See General Act, § 1.

Reservation of power to repeal.

§ 8. The charter of every corporation, that shall hereafter be granted by the Legislature shall be subject to alteration, suspension and repeal, in the discretion of the Legislature.

Trustees in case of dissolution.

§ 9. Upon the dissolution of any corporation created or to be created, and unless other persons shall be appointed by the Legislature, or by some court of competent authority, the directors or managers of the affairs of such corporation at the time of its dissolution, by whatever name they may be known in law, shall be the trustees of the creditors and stockholders of the corporation dissolved, and shall have full power to settle the affairs of the corporation, collect and pay the outstanding debts, and divide among the stockholders the moneys and other property that shall remain, after the payment of debts and necessary expenses.

Powers of trustees.

§ 10. The persons so constituted trustees shall have authority to sue for and recover the debts and property of the dissolved corporation, by the name of the trustees of such corporation, describing it by its corporate name, and shall be jointly and severally responsible to the creditors and stockholders of such corporation, to the extent of its property and effects that shall come into their hands.

LAWS RELATING GENERALLY TO RAILROADS.

[See *General Index Laws*, page 619.]

CHAP. 222, LAWS OF 1847.

AN ACT in relation to railroad corporations.

Terms of accommodation to be made to connect railroads of different companies.

SECTION 1. Every railroad company whose railroad shall, at or near the same place, connect with, or be intersected by, two or more other railroads which are competing lines for the business to or from such railroad, shall fairly and impartially grant and afford to the proprietors of each of such connecting or intersecting railroads equal terms of accommodations, privileges and facilities in the transportation of cars, passengers, baggage and freight, over and upon their railroads, and over and upon such connecting or intersecting railroads; and shall also grant and afford the proprietors of each of said connecting or intersecting railroads equal facilities in the interchange and use of passenger, baggage, freight and other cars so far as may be required to accommodate the business of each railroad; and also in furnishing passage tickets to passengers who may have come over, or may wish to go over either of such connecting or intersecting railroads; and if the proprietors of either of such connecting or intersecting railroads shall deem themselves aggrieved by the arrangements or conduct of the company with whose railroad their railroad connects in the premises, such proprietors may make application, by petition to the Governor of this State, on giving fourteen days' notice to the companies or proprietors of the railroads with which their railroad connects, for the appointment of three commissioners to inquire into the alleged complaints; and it shall be the duty of said Governor to appoint three disinterested persons as commissioners, who shall summarily examine into the alleged grievances, and shall prescribe such regulations in the premises as will in their judgment secure the enjoyment of equal privileges, accommodations and facilities to the proprietors of the said connecting or intersecting railroads, in the transportation, use and interchange of cars, passengers, baggage and freight, as may be required to accommodate the business of each of said railroads, and in the management and conduct of the several railroads connecting with each other; and the said commissioners shall also determine and fix the terms and conditions upon which such facilities and accommodations shall be afforded to each of said connecting railroads. The award of the commissioners, when approved by the Supreme Court, shall be binding on the parties for two years, and the court shall have power to compel the performance thereof by attachment, mandamus or otherwise. And the expenses of the foregoing proceedings shall be paid by such of the parties as shall be determined on by said court.

CHAP. 697, LAWS OF 1866.

AN ACT supplementary to the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850.

Companies for operating railway by stationary power.

SECTION 1. It shall be lawful for any number of persons, not less than ten,

to form themselves into a company for constructing, maintaining and operating a railway for public use, in the conveyance of persons and property, by means of a propelling rope or cable attached to stationary power; and upon compliance with the provisions of the first three sections of the act to which this is supplementary, they shall become a body corporate and politic, according to the provisions of said act; *Provided*, That the directors of any such company may be limited to any number not less than five, to be specified in the articles of association.

By what name designated.

§ 2. Any such company may style itself by the name of the inventor or patentee of the particular method of propulsion used, together with such local designation as the associates may deem desirable, and shall, by such name set forth in their articles of association, have and enjoy all the powers and privileges and be subject to the liabilities mentioned in the aforesaid act, passed April 2, 1850, so far as the same are comprised in the first twenty-six sections and the twenty-eighth section thereof.

Fare.

§ 3. Companies formed under the provisions of this supplementary act may fix and collect rates of fare on their respective roads, not exceeding five cents for each mile or any fraction of a mile, for each passenger, and with right to a minimum fare of ten cents.

When company may operate roads in other States.

§ 4. It shall be lawful for any company formed under this act to construct and operate and maintain a road or roads in any other State or country in which the same does not conflict with the laws of such State or country; provided the assent of inventors or patentees are first obtained in the same manner and extent as would be necessary within the United States.

Extension of corporate existence, how affected; firms, certified copy of certificate evidence.

§ 5. The continuance of any railroad corporation now existing, or hereafter to be formed under the laws of this State, may be extended beyond the time named for that purpose in its act or acts of incorporation, or in the articles of association of such corporation, by the filing in the office of the Secretary of State a certificate of consent to such extension signed by the holders of two-thirds in amount of the stock held by the stockholders of such corporation; and in every case where such consent has been or shall be so filed, the term of existence of such corporation is hereby extended and declared to be extended for the period designated in such certificate, and each such corporation shall, during the period named in such certificate, possess and enjoy all the rights, privileges and franchises enjoyed or exercised by such corporation at the time such certificate was or shall be so filed. Each such certificate shall be proved or acknowledged by the individuals signing the same before some officer authorized by law to take acknowledgments of deeds; and whenever such stock shall be owned or held by firms or copartnerships, the execution of such certificate shall be acknowledged by one or more of such copartners; and it shall be the duty of the Secretary of State to record such certificate in the book kept in his office for the record of articles of association of railroad companies. A copy of such certificate and of the acknowledgment thereof, certified by the Secretary of State, shall be presumptive evidence of the truth of the facts therein stated. (*Thus amended, Laws 1874, chap. 240.*)

CHAP. 276, LAWS OF 1834.

AN ACT to incorporate the Medina and Darien Railroad Company.

Power of Canal Commissioners.

* * * * *
 § 17. The Canal Commissioners are hereby invested with a general and supervisory power over so much of any railroad as passes over any canal or feeder belonging to this State, or approaches within ten rods of such canal or feeder, so far as such power may be necessary to preserve the free and perfect use of the canals or feeders of this State, and necessary for making any repairs, improvements or alterations in the same; and said company shall not construct their rail-

road over or at any place within ten rods of any canal or feeder belonging to this State, unless said company shall lay before the Commissioners aforesaid, a map, plan and profile, as well of the canal or feeder as of the route designated for their railroad, exhibiting distinctly and accurately the relation of each to the other, at all the places within the limits of ten rods as aforesaid; and shall thereupon obtain the written permission of said Canal Commissioners, with such conditions, instructions and limitations as, in the judgment of said Canal Commissioners, the free and perfect use of any such canal or feeder may require.

* * * * *

CHAP. 282, LAWS OF 1854.

AN ACT to amend the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850.

(Sections 1 to 8, inclusive, amend General Railroad Act.)

Acquiring real estate, not to apply to certain real estate in Buffalo.

§ 4. In case any railroad company, the line or route of whose road has been surveyed and designated, and the certificate thereof duly filed as required by law, is unable to agree for the purchase of any real estate required for its roadway or other purposes, the said corporation shall have the right to acquire title to the same by the special proceedings prescribed in the act hereby amended; and all real estate acquired by any railroad corporation under and pursuant to the provisions of this act, for the objects and purposes herein expressed, shall be deemed to be acquired for public use. But this section shall not be so construed as to apply to any real estate in the city of Buffalo, situated between Main and Michigan streets, except that lying between Exchange street and Buffalo river. (*Thus amended, Laws of 1882, chap. 82.*)

Courts empowered to carry proceedings into effect.

§ 5. In all cases of appraisal under this act, and the act hereby amended, where the mode or manner of conducting all or any of the proceedings to the appraisal, and the proceedings consequent thereon, are not expressly provided for by the statute, the courts before whom such proceedings may be pending shall have the power to make all the necessary orders, and give the proper directions to carry into effect the object and intent of this and the aforesaid act; and the practice in such cases shall conform, as near as may be, to the ordinary practice in such courts.

Appraisal not affected by transfer of property.

§ 6. When any proceedings of appraisal shall have been commenced, no change of ownership, by voluntary conveyance or transfer of the real estate, or any interest therein, or of the subject-matter of the appraisal, shall in any manner affect such proceedings, but the same may be carried on and perfected as if no such conveyance or transfer had been made or attempted to be made.

Ringling of bells at cross roads; penalty.

§ 7. A bell shall be placed on each locomotive engine run on any railroad, and rung at the distance of at least eighty rods from the place where the railroad shall cross any traveled public road or street on the same level with the railroad, and be kept ringing until it shall have crossed such road or street; or a steam whistle shall be attached to each locomotive engine, and be sounded at least eighty rods from the place where the railroad shall cross any such traveled public road or street upon the same level with the railroad, except in cities, and be sounded at intervals until it shall have crossed such road or street, and every neglect to comply with the foregoing provision shall subject the corporation owning the railroad to a fine not exceeding \$20, in the discretion of the court having cognizance of the offense; and every engineer having charge of the engine, for every neglect to comply with the requirements aforesaid, shall be fined not exceeding \$50, or imprisoned in the county jail not exceeding sixty days, in the discretion of the court.

before which any indictment may be tried ; and the said corporation shall, moreover, be liable for all damages which shall be sustained by any person by reason of such neglect. All the penalties hereinbefore mentioned may be sued for in the name of the people of the State of New York, by the district attorney of the county wherein the same shall accrue, within ten days thereafter ; and in case such district attorney shall omit or neglect to sue for such fine or fines within the time aforesaid, then it may and shall be lawful for any person aggrieved to sue therefor in the name of the overseers of the poor of the town wherein any such fine or fines shall have accrued, which, when recovered, shall be paid to the said overseers of the poor, for the benefit of the poor of said town. And in case such person shall fail to make out and maintain any such action, it shall be the duty of the court before whom any such action shall be had to enter a judgment against the complainant for the costs of said action.

Fencing road.

§ 8. Every railroad corporation, whose line of road is open for use, shall within three months after the passage of this act, and every railroad company formed or to be formed, but whose lines are not now open for use, shall, before the lines of such railroad are opened, erect and thereafter maintain fences on the sides of their roads, of the height and strength of a division fence, as required by law, with openings or gates, or bars therein at the farm crossings of such railroad, for the use of the proprietors of the lands adjoining such railroads, and shall also construct, where the same has not already been done, and hereafter maintain, cattle-guards at all road crossings, suitable and sufficient to prevent cattle, horses, sheep and hogs from getting on to such railroad. And so long as such fences and cattle-guards shall not be made, and when not in good repair, such railroad corporation and its agents shall be liable for damages which shall be done by the agents or engines of any such corporation to any cattle, horses, sheep or hogs thereon, and when such fences and guards shall have been duly made and shall be kept in good repair, such railroad corporation shall not be liable for any such damages, unless negligently or willfully done. A sufficient post and wire fence of requisite height shall be deemed a lawful fence, within the provisions of this section ; but no railroad corporation shall be required to fence the sides of its roads, except when such fence is necessary to prevent horses, cattle, sheep and hogs from getting on to the track of the railroad from the lands adjoining the same

Owner of land, when to build.

§ 9. But it shall be the duty of every owner of land adjoining any railroad, who has received, or whose grantor has received, a specific sum as compensation for fencing along the line of land taken for the purpose of said railroad, and has agreed to build and maintain a lawful fence on the line of said road, to build and maintain such fence ; and if said owner, his heir or assign, shall not build said fence within thirty days after he has been notified so to do by the said railroad corporation, or shall neglect to maintain said fences, if built, said corporations shall build and thereafter maintain such fence, and may maintain a civil action against the person so neglecting to build or maintain said fence, to recover the expense thereof.

Unclaimed freight.

§ 10. Every railroad company which shall have had unclaimed freight, not perishable, in its possession for a period of one year at least, may proceed to sell the same at public auction, and out of the proceeds may retain the charges of transportation and storage of such freight, and the expenses of advertising and sale thereof ; but no such sale shall be made until the expiration of four weeks from the first publication of notice of such sale in the State paper, and also in a newspaper published at or nearest the place at which such freight was directed to be left, and also at the place where such sale is to take place ; and said notice shall contain a description of such freight, the place at which and the time when the same was left, as near as may be, together with the name of the owner or person to whom consigned, if known ; and the expenses incurred for advertising shall be a lien upon such freight, in a ratable proportion, according to the value of each article or package or parcel, if more than one.

Perishable freight.

§ 11. In case such unclaimed freight shall, in its nature, be perishable, then the same may be sold as soon as it can be, on giving the notice required in the preceding section, after its receipt at the place where it was directed to be left.

Proceeds of sale.

§ 12. Such railroad company shall make an entry of the balance of the proceeds of the sale, if any, of each parcel of freight owned by or consigned to the same person, as near as can be ascertained, and at any time within five years thereafter shall refund any surplus so retained to the owner of such freight, his heirs or assigns, on satisfactory proof of such ownership.

Lines common to two roads; how constructed.

§ 13. Whenever two railroad companies shall, for a portion of their respective lines, embrace the same location of line, or whenever by the connection of two or more railroads, the same points of termination are reached by railroad communication, any two such railroads may, by agreement, provide for the construction of so much of said line as is common to both of them by one of the companies, and for the manner and terms upon which the business thereon shall be performed. Any road so connecting may alter and amend its articles of association, so as to terminate at the point of intersection, and may reduce its capital to a sum not less than \$10,000 for each mile of the road constructed, or proposed to be constructed in such amended articles of association. This section shall not be so construed as to apply to any railroad company or companies, so far as its or their line of road or roads are within the bounds of any incorporated city of this State.

Persons on whom process may be served.

§ 14. Every railroad corporation in this State shall, within thirty days after this act shall take effect, designate some person, residing in each of the counties through or into which such railroad may run, on whom process, to be issued by a justice of the peace, may be served, and shall file such designation in the office of the clerk of the county where the person so designated shall reside, and a copy of such designation, duly certified by such clerk, shall be evidence of such appointment, and the service of any process upon the person so designated or named, to be issued by any justice of the peace in any civil action or matter of which such justice may have jurisdiction, shall be as valid and effectual as if served upon the president or any director of any such corporation, as now provided by law.

Service on agents and servants.

§ 15. In all cases where such designation shall not be made as aforesaid, and where no officer of such corporation shall reside in the county, on whom process can be served according to the existing provisions of law, the process mentioned in the next preceding section may be served on any local superintendent of repairs, freight agent, agent to sell tickets, or station keeper of such corporation, residing in such county, which service shall be as effectual in all respects as if made on the president or any director of such corporation.

(§ 16 amends the General Railroad Act of 1850.)

Where track crosses canals.

§ 17. The directors of any railroad company whose track crosses any of the canals of this State, and the present grade thereof shall be raised in consequence of directions given by the Canal Commissioners, may, with the assent of the said Canal Commissioners, lay out a new line of road for the purpose of crossing such canal on a more favorable grade, and may extend such new line and connect the same with any other line of road owned by the same company, and a survey, map and certificate of such new or altered line shall be made and filed in the clerk's office of the proper county; and such company shall have the same right

and power to acquire title to any lands required for the purposes of such company, under the provisions of this section, as it would have in the location of a line of road in the first instance; and all the provisions of the act hereby amended, relative to acquiring title to land for railroad purposes, shall apply to such new or altered line; and all lands acquired by any railroad company by appraisal, for passenger and freight depots, shall be held by such company in fee; but no new line or route of road can be laid out and established, as contemplated in this section, in any city or village, unless the same be sanctioned by a vote of two-thirds of the common council of said city, or trustees of said village, nor shall any railroad company be compelled to abandon any existing line of road in consequence of establishing such new line of road.

Repeal.

§ 18. Section thirty-nine of the act hereby amended is repealed, but this repeal shall not affect any action or proceeding heretofore commenced under said section.

CHAP. 478, LAWS OF 1855.

AN ACT authorizing a change of the grade of railroads in certain cases.

Grade where crossing a canal.

SECTION 1. Whenever the grade of any railroad shall be changed under the direction of the Canal Commissioners, at any point where such road crosses, or shall cross any canal, or canal feeder, except in the city of Buffalo, it shall be lawful for the directors of the company owning such railroads to alter the grade of such road, on each, or either side of the place where such change shall have been so made by order of the Canal Commissioners, for such distance and in such manner as the said directors may deem necessary. And the directors of any railroad company shall also be authorized, at any time, to change the grade of any part of their road except in the city of Buffalo, in such manner as they may deem necessary to avoid accidents, and to facilitate the use of such road; any and all damages arising from such alteration to be appraised in same manner as provided in the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same;" and in the several acts amendatory thereof. [See chap. 62, Laws of 1853, page 549.]

CHAP. 300, LAWS OF 1835.

AN ACT to enlarge the powers of commissioners of highways.

Lawful for commissioners of highways, having supervision thereof, to give written consent for construction across road or highway.

SECTION 1. Whenever any association or individual shall construct a railroad upon land purchased for that purpose, on a route which shall cross any road or other public highway, it shall be lawful for the commissioners of highways, having the supervision thereof, to give a written consent that such railroad may be constructed across, or on such road or other public highway; and thereafter such association or individual shall be authorized to construct and use such railroad across, or on such roads or other highways as the commissioners aforesaid shall have permitted; but any public highway thus intersected or crossed by a railroad shall be so restored to its former state as not to have impaired its usefulness.

CHAP. 255, LAWS OF 1855.

AN ACT to enlarge the powers and duties of commissioners of highways.

Commissioners empowered to bring action against any railroad corporation to sustain rights of the public in and to any highway; to enforce any duty enjoined upon a railroad corporation; may maintain action for damages.

SECTION 1. The commissioner or commissioners of highways in each of the

Perishable freight.

§ 11. In case such unclaimed freight shall, in its nature, be perishable, then the same may be sold as soon as it can be, on giving the notice required in the preceding section, after its receipt at the place where it was directed to be left.

Proceeds of sale.

§ 12. Such railroad company shall make an entry of the balance of the proceeds of the sale, if any, of each parcel of freight owned by or consigned to the same person, as near as can be ascertained, and at any time within five years thereafter shall refund any surplus so retained to the owner of such freight, his heirs or assigns, on satisfactory proof of such ownership.

Lines common to two roads; how constructed.

§ 13. Whenever two railroad companies shall, for a portion of their respective lines, embrace the same location of line, or whenever by the connection of two or more railroads, the same points of termination are reached by railroad communication, any two such railroads may, by agreement, provide for the construction of so much of said line as is common to both of them by one of the companies, and for the manner and terms upon which the business thereon shall be performed. Any road so connecting may alter and amend its articles of association, so as to terminate at the point of intersection, and may reduce its capital to a sum not less than \$10,000 for each mile of the road constructed, or proposed to be constructed in such amended articles of association. This section shall not be so construed as to apply to any railroad company or companies, so far as its or their line of road or roads are within the bounds of any incorporated city of this State.

Persons on whom process may be served.

§ 14. Every railroad corporation in this State shall, within thirty days after this act shall take effect, designate some person, residing in each of the counties through or into which such railroad may run, on whom process, to be issued by a justice of the peace, may be served, and shall file such designation in the office of the clerk of the county where the person so designated shall reside, and a copy of such designation, duly certified by such clerk, shall be evidence of such appointment, and the service of any process upon the person so designated or named, to be issued by any justice of the peace in any civil action or matter of which such justice may have jurisdiction, shall be as valid and effectual as if served upon the president or any director of any such corporation, as now provided by law.

Service on agents and servants.

§ 15. In all cases where such designation shall not be made as aforesaid, and where no officer of such corporation shall reside in the county, on whom process can be served according to the existing provisions of law, the process mentioned in the next preceding section may be served on any local superintendent of repairs, freight agent, agent to sell tickets, or station keeper of such corporation, residing in such county, which service shall be as effectual in all respects as if made on the president or any director of such corporation.

(§ 16 amends the General Railroad Act of 1850.)

Where track crosses canals.

§ 17. The directors of any railroad company whose track crosses any of the canals of this State, and the present grade thereof shall be raised in consequence of directions given by the Canal Commissioners, may, with the assent of the said Canal Commissioners, lay out a new line of road for the purpose of crossing such canal on a more favorable grade, and may extend such new line and connect the same with any other line of road owned by the same company, and a survey, map and certificate of such new or altered line shall be made and filed in the clerk's office of the proper county; and such company shall have the same right

and power to acquire title to any lands required for the purposes of such company, under the provisions of this section, as it would have in the location of a line of road in the first instance; and all the provisions of the act hereby amended, relative to acquiring title to land for railroad purposes, shall apply to such new or altered line; and all lands acquired by any railroad company by appraisal, for passenger and freight depots, shall be held by such company in fee; but no new line or route of road can be laid out and established, as contemplated in this section, in any city or village, unless the same be sanctioned by a vote of two-thirds of the common council of said city, or trustees of said village, nor shall any railroad company be compelled to abandon any existing line of road in consequence of establishing such new line of road.

Repeal.

§ 18. Section thirty-nine of the act hereby amended is repealed, but this repeal shall not affect any action or proceeding heretofore commenced under said section.

CHAP. 473, LAWS OF 1855.

AN ACT authorizing a change of the grade of railroads in certain cases.

Grade where crossing a canal.

SECTION 1. Whenever the grade of any railroad shall be changed under the direction of the Canal Commissioners, at any point where such road crosses, or shall cross any canal, or canal feeder, except in the city of Buffalo, it shall be lawful for the directors of the company owning such railroads to alter the grade of such road, on each, or either side of the place where such change shall have been so made by order of the Canal Commissioners, for such distance and in such manner as the said directors may deem necessary. And the directors of any railroad company shall also be authorized, at any time, to change the grade of any part of their road except in the city of Buffalo, in such manner as they may deem necessary to avoid accidents, and to facilitate the use of such road; and all damages arising from such alteration to be appraised in same manner as provided in the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same;" and in the several acts amendatory thereof. [See chap. 62, Laws of 1853, page 549.]

CHAP. 300, LAWS OF 1835.

AN ACT to enlarge the powers of commissioners of highways.

Lawful for commissioners of highways, having supervision thereof, to give written consent for construction across road or highway.

SECTION 1. Whenever any association or individual shall construct a railroad upon land purchased for that purpose, on a route which shall cross any road or other public highway, it shall be lawful for the commissioners of highways, having the supervision thereof, to give a written consent that such railroad may be constructed across, or on such road or other public highway; and thereafter such association or individual shall be authorized to construct and use such railroad across, or on such roads or other highways as the commissioners aforesaid shall have permitted; but any public highway thus intersected or crossed by a railroad shall be so restored to its former state as not to have impaired its usefulness.

CHAP. 255, LAWS OF 1855.

AN ACT to enlarge the powers and duties of commissioners of highways.

Commissioners empowered to bring action against any railroad corporation to sustain rights of the public in and to any highway; to enforce any duty enjoined upon a railroad corporation; may maintain action for damages.

SECTION 1. The commissioner or commissioners of highways in each of the

towns of this State are hereby empowered to bring any action against any railroad corporation that may be necessary or proper to sustain the rights of the public in and to any highway in such town, and to enforce the performance of any duty enjoined upon any railroad corporation in relation to any highway in the town of which they are commissioners, and to maintain an action for damages or expenses which any town may sustain or may have sustained, or may be put to or may have been put to, in consequence of any act or omission of any such corporation in violation of any law in relation to such highway.

Construction of act.

§ 2. Nothing in this act shall be construed as in any manner impairing the right of any person or officer to bring any action now authorized by law.

CHAP. 316, LAWS OF 1836.

AN ACT authorizing the construction of railroads upon Indian lands.

Contracts; how made.

SECTION 1. It shall be lawful for any railroad company that has been, or may hereafter be, chartered by the Legislature of this State, to contract with the chiefs of any nation of Indians, over whose lands it may be necessary to construct such railroad, for the right to make such road upon such lands; but no such contract shall vest in such railroad company the fee to such lands, nor the right to occupy the same for any purposes other than what may be necessary for the construction, occupancy and maintenance of such railroad.

Contracts to be ratified by court.

§ 2. No contract made with the chiefs of any nation of Indians, for the purposes mentioned in the first section of this act, shall be valid or effectual until the same shall be ratified by the Court of Common Pleas of the county where such lands may be situated.

CHAP. 515, LAWS OF 1867.

AN ACT in relation to railroad corporations.

The obtaining of land.

SECTION 1. Any railroad company which has been, or which may hereafter be, duly formed under the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, and which is duly continued in existence, when at least \$10,000 for every mile of its railroad proposed to be constructed in this State shall be, in good faith, subscribed to its capital stock, and ten per cent thereof paid in, may apply to the court for the appointment of commissioners, and all subsequent proceedings may be had to obtain the title to lands necessary for the construction of its railroad, to the same extent and in the same manner as if the whole amount of the capital stock specified in its articles of association was in like manner subscribed.

CHAP. 775, LAWS OF 1867.

AN ACT to amend an act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850.

When corporate powers shall cease.

SECTION 1. If any corporation formed under an act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, shall not, within five years after its articles of association are filed and

recorded in the office of the Secretary of State, begin the construction of its road and expend thereon ten per cent on the amount of its capital, or shall not finish its road and put it in operation in ten years from the time of filing its articles of association, as aforesaid, its corporate existence and powers shall cease.

CHAP. 598, LAWS OF 1876.

AN ACT in relation to railroad corporations.

Extending time for construction.

SECTION 1. Any existing railroad company heretofore organized or incorporated under the laws of this State, except such as may have been organized for the purpose of constructing or operating a railroad in the city of New York, which may be unable from any cause to construct its railroad within the time specified by its charter or articles of association, shall hereby have the time for the completion of the railroad it was authorized to construct extended for a further term of two years beyond the time heretofore limited; and failure to construct its railroad within the time heretofore limited shall not cause a forfeiture of its corporate powers; but nothing herein contained shall have the effect to revive any corporation whose corporate power has been forfeited from any cause. (*Thus amended, Laws of 1879, chap. 850.*)

CHAP. 405, LAWS OF 1882.

AN ACT in relation to railroad corporations.

Time extended in which to complete road.

SECTION 1. Any railroad company heretofore organized or incorporated under the laws of this State, except such as may have been organized for the purpose of constructing or operating a railroad in the city of New York, which may be unable from any cause to construct its railroad within the time specified in its charter or articles of association, or heretofore limited by law, shall hereby have the time for the completion of the railroad it was authorized to construct extended for a further term of two years beyond the time heretofore limited; and failure to expend ten per centum on the amount of its capital, or to have completed its road within the time heretofore limited, shall not be deemed a cause of forfeiture of its corporate powers; but nothing herein contained shall have the effect to revive any corporation whose corporate power shall have ceased prior to January first, eighteen hundred and eighty-two, who shall have been judicially ascertained and determined to have been forfeited from any cause.

Not to apply to certain corporations.

§ 2. The provisions of this act shall not extend or apply to any corporation or company, or to the assignee or successor of any corporation or company, organized under chapter three hundred and twenty-six of the laws of eighteen hundred and eighty, entitled "An act relating to the banks and prism of the Genesee Valley canal, and for the sale thereof," or to any corporation or company that has already commenced the construction of its road. The provisions of this act shall not extend or apply to the New York and Albany Railroad Company.

CHAP. 264, LAWS OF 1878.

AN ACT to authorize corporations organized under the laws of this State to reduce their capital stock.

May diminish capital stock; proviso.

SECTION 1. Any corporation or company organized under general or a special law of the State, and now existing, or which may hereafter be organized under such general or special law, may diminish its capital stock, by complying with the provisions of this act, to any amount which may be deemed sufficient and

proper for the purposes of the corporation. But nothing in this act shall be so construed as to relieve any holder or owner of stock in such corporation from any personal liability existing prior to such reduction; provided, that nothing in this act contained shall be construed to in any manner interfere with, or affect any law now in existence, authorizing any corporation heretofore organized to reduce its capital stock.

Notice of meeting to reduce stock; necessary vote.

§ 2. Whenever any company shall desire to call a meeting of the stockholders, for the purpose of diminishing the amount of its capital stock, it shall be the duty of the trustees or directors to publish a notice, signed by at least a majority of them, in a newspaper in the county in which the business of the company is carried on, or its principal office is located, if any, shall be published therein, at least three successive weeks, and to deposit a written or printed copy thereof in the post-office, addressed to each stockholder, at his usual place of residence, at least three weeks previous to the day fixed upon for holding such meeting, specifying the object of the meeting, the time and place when and where such meeting shall be held, and the amount to which it shall be proposed to diminish the capital; and a vote of at least two-thirds of all the shares of stock shall be necessary to a diminution of the amount of its capital stock.

Stock; how reduced; certificate, when filed; approval of Comptroller.

§ 3. If, at the time and place specified in the notice provided for in the preceding section of this act, the stockholders shall appear in person or by proxy, in numbers representing not less than two-thirds of all the shares of stock of the corporation, they shall organize by choosing one of the trustees chairman of the meeting, and also a suitable person for secretary, and proceed to a vote of those present in person or by proxy, and if, in canvassing the votes, it shall be found that a sufficient number of votes has been given in favor of diminishing the amount of capital, a certificate of the proceedings showing a compliance with the provisions of this act, the amount of capital actually paid in, the whole amount of debts and liabilities of the company, and the amount to which the capital stock shall be diminished, shall be made, signed and verified by the chairman, and such certificate shall be acknowledged by the chairman and filed in the office of the clerk of the county in which the business of the company shall be carried on, and a duplicate thereof in the office of the Secretary of State, with the approval of the Comptroller indorsed thereon, to the effect that the reduced capital is sufficient for the proper purposes of the company, and is in excess of all debts and liabilities of the company, exclusive of debts secured by trust mortgages, and that the actual market value of the stock of the company prior to the reduction of the capital was less than the par value of the same, and when so filed, the capital stock of such corporation shall be reduced to the amount specified in such certificate.

CHAP. 225, LAWS OF 1880.

AN ACT to authorize the exchange of preferred stock for common stock of corporations.

Exchange of preferred stock for common, may be authorized by vote of two-thirds of the directors.

SECTION 1. Every corporation organized under the laws of this State which has heretofore issued, or may hereafter issue, both preferred and common stock, forming part of the capital stock of such corporation, is hereby authorized, whenever the directors of such corporation shall, by vote of two thirds of their number, declare it for the interest of the corporation so to do, and the holder of any such preferred stock may request, in writing, the exchange of the same for the common stock, to exchange the preferred stock of such holder for common stock, and to issue certificates of common stock therefor, share for share, or upon such other valuation as may have been agreed upon in the scheme for organization of such company or the issue of such preferred stock; provided, however, that the total amount of the capital stock of such company shall not be increased thereby.

CHAP. 560, LAWS OF 1871.

AN ACT to amend an act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850.

(Section 1 amends General Railroad Act of 1850.)

Change of terminus of intersecting roads; consent of stockholders requisite.

§ 2. Whenever any railroad company shall have located its road so as to terminate at any railroad previously constructed or located, whereby communication might be had with any incorporated city of this State, and any other railroad company shall subsequently locate its road so as to intersect the road of said first-mentioned company, and thereby, by itself or its connections, afford communication with such city, then and in such case said first-mentioned company may alter and amend its articles of association so as to have its road terminate at the point of intersection with said road so subsequently located, provided the consent of the stockholders representing or holding two-thirds of the stock of said company shall have been first obtained thereto.

Maps, surveys, etc., when to be filed or recorded in register's office; transfer and refiling authorized.

§ 3. Whenever in said act any map, survey, profile, reports, certificate or other paper is directed to be filed or recorded in the office of the county clerk, the same shall be filed or recorded in the office of the register of the county, provided there be a register's office in said county, and all maps, profiles, surveys, reports, certificates or other papers which have, pursuant to the provisions of said act, been heretofore filed or recorded in the office of the clerk of any county in which there is a register, shall be, within thirty days after the passage of this act, transferred to the office of such register, and shall be by him refiled or recorded as of the date of the original filing or record.

(§ 4 also amends the General Railroad Act of 1850.)

Narrow-gauge roads; when articles may be filed; contents of articles; amount of capital.

§ 5. Corporations may be formed under the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, for the purpose of constructing and operating railroads for public use in transporting persons and property, of the gauge of three feet and six inches or less, but not less than thirty inches within the rails; whenever capital stock of said corporation to the amount of \$1,000 for every mile of such railroad proposed to be constructed and operated has been in good faith subscribed, and whenever \$1,000 or more for every mile of such railroad proposed to be constructed shall be in like manner subscribed, and ten per cent thereon in good faith actually paid in cash to the directors named in the articles of association, and an affidavit made by at least three of said directors and indorsed on or annexed to said articles that the amount of stock hereby required has been so subscribed as aforesaid, and ten per cent thereon paid as aforesaid, and that it is intended in good faith to construct and operate such railroad, then said articles with such affidavit may be filed and recorded in the office of the Secretary of State, provided said articles contain all the other facts required by law to be stated in articles of association made for organizing railroad corporations under said act, entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, except the amount of the capital stock of the company stated in said articles shall not be less than \$3,000 for every mile of road constructed, or proposed to be constructed, and all of the provisions of said last-mentioned act shall apply to corporations formed for the construction and operating of railroads of the gauge hereinabove mentioned, except as herein provided, or otherwise provided by law. (Thus amended, Laws of 1879, chap. 298, subd. now § 5 of chap. 560 of Laws of 1850.)

Right of way, how acquired ; weight of rails ; fare proviso ; weight of engine.

§ 6. Any railroad company, duly organized according to law, when the gauge of its proposed railroad shall be three feet and six inches or less, but not less than thirty inches within the rail, may whenever \$2,000 for every mile of road to be constructed has been, in good faith, subscribed and ten per cent thereon paid, in good faith, in cash, apply to the Supreme Court, in the manner provided by law, for the appointment of commissioners, and all subsequent proceedings may be had to obtain the title of lands necessary for the construction and maintenance and operating said railroad to the same extent and in the same manner as if the whole amount of the capital stock, specified in its articles of association, was in like manner subscribed and ten per cent thereon in like manner paid in cash ; and may lay upon such road iron of a weight not less than twenty-five pounds to the lineal yard, such railroad company may charge and receive, when its road is not more than twenty-five miles in length, not exceeding five cents per mile ; when its road is more than twenty-five and not more than forty miles in length, not exceeding four cents per mile ; and when the road is more than forty miles in length, not exceeding three cents per mile for each passenger and his ordinary baggage transported on said road, provided that nothing relating to fares in this section shall apply to railroad companies now incorporated, or to any railroad now in operation, or to any railroad or part thereof located, or to be located, in the county of Kings, county of New York, or within the limits of any incorporated city. And it is further provided that in case the weight of rail used shall not exceed twenty five pounds per lineal yard, such railroad company shall not use an engine exceeding eighteen tons weight, or run at a greater speed than fifteen miles per hour. (*Thus amended, Laws 1883, chap. 384.*)

Existing corporations may construct narrow-gauge road.

§ 7. Any railroad corporation now duly organized and legally kept in existence, which has not constructed its railroad, may construct a railroad of the gauge hereinbefore mentioned, and may acquire title to lands necessary for the construction, maintenance and operating of such railroad, on complying with the provisions of this act, and of all other provisions of law not inconsistent herewith.

CHAP. 452, LAWS OF 1881.

AN ACT to authorize corporations owning canals to construct and operate railroads along side of or in lieu thereof.

Corporation owning canal may construct railroad.

SECTION 1. It shall be lawful for any corporation of this State owning and operating a canal to construct and operate along or in lieu of such canal a railroad, and the exercise of the authority hereby conferred shall not be deemed to forfeit or impair its corporate rights under its charter or act of incorporation.

Corporate powers.

§ 2. Such company, in the construction and maintenance of any such railroad under the authority of this act, shall have, possess and enjoy all the powers and privileges contained in an act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, and the several acts amending the same, and be subject to all the duties, liabilities and provisions so far as relates to any powers or privileges by this act upon said company conferred and hereafter exercised.

Not authorized to construct railroad in any other locality.

§ 3. Nothing in this act contained shall authorize the construction of any railroad except upon or along such canal owned and operated by any such company, and not in any other locality.

CHAP. 386, LAWS OF 1883

AN ACT in relation to fare on short railroads, and having tracks of two gauges and not entering the limits of any incorporated city.

Rate of fare.

SECTION 1. Any railroad corporation now duly organized and having a railroad of the ordinary gauge, or the lessee of any such corporation, which may by the laying down of a third rail so as also to create a track of the gauge of three feet and six inches or less, but not less than thirty inches between the rails, shall for the purpose of asking and receiving fare for the transportation of passengers over the said narrow gauge track, be deemed a railroad of the gauge of three feet and six inches or less, not less than thirty inches between the rails, when the said narrow gauge does not enter or traverse the limits of any incorporated city and said road does not exceed six miles in length, including any connecting railroad of the same gauge.

CHAP. 329, LAWS OF 1872.

AN ACT in relation to the formation of railroad companies.

When persons who have signed articles, and who shall thereafter become stockholders, shall be and become a corporation.

SECTION 1. Whenever any number of persons, not less than twenty-five, shall make and sign, or shall, before the passage of this act, have made and signed articles of association, containing the statements required by section 1 of an act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, except the names and places of residence of thirteen directors of the company, as therein provided; and thereafter thirteen directors have been chosen at a meeting of subscribers to such articles, and the names and places of residence of such directors so chosen have been inserted in such articles so subscribed, and there has been indorsed thereon the affidavit prescribed by the second section of said act, and said articles have been filed and recorded in the office of the Secretary of State; thereupon, the persons who have subscribed such articles, and all persons who shall thereafter become stockholders in such company, shall be a corporation by the name specified in such articles of association, and have the same powers and privileges, and be subject to the same liabilities, as though such articles had, when signed, contained the names and places of residence of such directors.

CHAP. 19, LAWS OF 1851.

AN ACT in relation to railroad corporations.

Line common to two companies may be built by one; articles, how amended.

SECTION 1. Whenever two railroad companies shall, for a portion of their respective lines, embrace the same location of line, they may by agreement provide for the construction of so much of said line as is common to both of them by one of the companies, and for the manner and terms upon which the business thereon shall be performed. Upon the making of such agreement, the company that is not to construct the part of the line which is common to both, may alter and amend its articles of association so as to terminate its line at the point of intersection and may reduce its capital to a sum not less than \$10,000 for each mile of the road proposed to be constructed in such amended articles of association.

Part of line may be constructed in another State.

§ 2 Whenever, after due examination, it shall be ascertained by the directors of any railroad company, organized under the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed March 26, 1848, or under the act entitled "An act to authorize the formation of railroad

corporations, and to regulate the same," passed April 2, 1850, that a part of the line of their railroad proposed to be made between any two points in this State, ought to be located and constructed in an adjoining State, it may be so located and constructed by a vote of two-thirds of all the directors, and the sections of said railroad within this State shall be deemed a connected line, according to the articles of association, and the directors may reduce the capital specified in their articles of association to such amount as may be deemed proper, but not less than the amount required by law for the number of miles of railroad to be actually constructed in this State.

(Section 3 obsolete except as to railroads formed under act of 1848, and hence omitted.)

Damages for crossing turnpike or plankroad.

§ 4. In case any railroad shall occupy or cross any turnpike or plankroad, the railroad company shall pay such turnpike or plankroad company all damages the turnpike or plankroad company may sustain by reason of the occupancy or crossing such turnpike or plankroad, the damages to be ascertained and paid in the same manner as is provided by law for the assessment and payment of damages in case of taking private property for the use of railroad companies.

(Chapter 140, Laws 1854, entitled "An act relative to the construction of railroads in cities," is omitted as being practically obsolete since the passage of the General Street Railroad Act, chap. 252, Laws of 1884. Its application is limited to railroads which commence and end in a city.)

CHAP. 843, LAWS OF 1872.

AN ACT to amend an act entitled "An act supplementary to the act entitled 'An act to authorize the formation of railroad corporations, and to regulate the same,' passed April 2, 1850."

(Section 1 amends Laws of 1866, chapter 697.)

Where portions of lines of two roads embrace same location, companies may provide, by agreement, for construction of line by one company; Railroad Commissioners not to be compelled to surrender bonds until consent of tax payers is obtained.

§ 2. Whenever two railroad companies, for a portion of their respective lines, embrace the same location of line, or whenever their lines connect or are tributary to each other, such companies may, by agreement, provide for the construction, by one of said companies, of so much of said line as is common to both, or connects with its own line, and for the manner and terms upon which the business thereon shall be performed; and the company so constructing the common and connecting and tributary portion of road shall, if the terms of such agreement so provide, be entitled to have and receive all the town bonds which have been or may be authorized to be issued to either company in aid of the construction thereof, and the towns authorized to issue such bonds are hereby authorized and required to exchange the same for the stock or bonds of the railroad company that shall, under such agreement, construct a railroad upon the line designated therein, to an amount specified in the petition of the tax payers, or remaining unpaid on their subscription to the stock of either of said railroad companies. Nothing in this act contained shall be construed so as to compel the commissioners of any town that has assented to bond for railroad purposes for any specified line of railroad to surrender the bonds of any such town to any other railroad organization, until the assent of a majority of the tax payers, owning a majority of the property appearing upon the assessment-roll of such town, has been first obtained.

CHAP. 108, LAWS OF 1876.

AN ACT in relation to railroad corporations.

What companies may consolidate.

SECTION 1. In any case where two or more railroad companies shall have been, or shall hereafter be, organized under the laws of this State, the whole of whose lines, as located by them, respectively, shall form one continuous and connecting line of road, the said companies may consolidate their lines of roads, stock, franchises and property, according to the existing laws of this State relating to the consolidation of railroad companies; and any such consolidated company may thereupon construct or finish the construction of such continuous line of railroad, and operate the same subject to all provisions of law applicable to railroad corporations organized under the said laws, so far as not inconsistent with this act; but this act shall not in any manner affect the existing laws regulating the rate of fare on any railroad. (*Thus amended, Laws of 1883, chap. 387.*)

CHAP. 468, LAWS OF 1881.

AN ACT to authorize the formation of corporations for the purpose of acquiring, constructing and operating railroads in foreign countries.

Corporators and corporate objects.

SECTION 1. Any number of persons, not less than ten, a majority of whom shall be inhabitants of this State, may form a company for the purpose of constructing, maintaining and operating in any foreign country a railroad or railroads for public use in the conveyance of persons and property, or for the purpose of maintaining and operating any railroad or railroads, already constructed in whole or in part, for the like public use, with power to construct, maintain and operate in connection with such railroad or railroads a line or lines of telegraph, and such lines of steamboats or sailing vessels as may be proper or convenient for use in connection therewith; and for that purpose may make and sign articles of association in the form provided by section 2 of this act; and upon complying with the provisions of the said section shall, with their associates and successors, be and remain a corporation for the purposes aforesaid, with the powers given by this act and by the laws of this State.

Articles of association to be approved by the Governor, etc.; form of certificate.

§ 2. The articles of association, mentioned in the preceding section, shall state the name of the company; the number of years the same is to continue, not exceeding the term of one hundred years; as far as practicable the places from and to which the said line or lines shall be constructed, maintained and operated; the amount of the capital stock of the company and the number of shares of which such capital stock shall consist, and the names and places of residence of not less than seven persons, who shall act as a board of directors for the management of the affairs of the company for the first year and until others are chosen in their places. Each subscriber of such articles of association shall subscribe thereto his name, place of residence, and the number of shares of stock he agrees to take in said company. The said articles of association shall, after the approval, by the Governor, of the same, be filed in the office of the Secretary of State, who, upon the payment to him of a fee of \$50, shall indorse thereon the date they are filed and record the same in a book to be provided by him for that purpose, and shall issue a certificate substantially in the following form:

STATE OF NEW YORK:

Be it known that whereas (names of the subscribers to the articles of association) have associated themselves with the intention of forming a corporation under the name of the (name of corporation) for the purpose of locating, constructing or acquiring, maintaining and operating a railroad or railroads (and telegraph)

(and shipping lines) (description of the roads, etc., as in the articles of association) and have complied with the statutes of this State in such cases made and provided; now, therefore, I (name of secretary) Secretary of State of the State of New York, do hereby certify that the persons aforesaid, their associates and successors, are legally established as a corporation under the name of (name of corporation) with all the powers and privileges and subject to all the duties, liabilities and restrictions set forth in an act of the Legislature of the State of New York, entitled "An act passed the day of in the year eighteen hundred and eighty-one."

In witness I have hereunto subscribed my official signature and affixed the seal of this State, this day of in the year

Secretary of State.

Certificate to be recorded.

§ 3. The certificate executed as provided in the last section shall be recorded with the articles of association, and the original certificate, or a duly certified copy of the record thereof, shall be conclusive evidence of the establishment of the corporation at the date of such certificate.

Board of directors.

§ 4. The government and direction of the affairs of every corporation formed under this act shall be vested in its board of directors, who shall hold their offices for one year and until others are elected in their places. In case of a vacancy occurring in such board of directors by death, resignation or otherwise, the remaining members of the board may fill such vacancy. The board of directors shall have power to make, and from time to time to amend the by-laws of the company, and may, by such by-laws, provide that less than a majority of the board shall constitute a quorum, and may delegate any and all of the powers of the board of directors to an executive committee during the interval between the meetings of the board. The directors shall elect one of their number to be president of their board and of the corporation, and may elect such other officers as shall be provided by the by-laws.

Corporate powers.

§ 5. Every corporation formed under this act shall, in addition to the powers conferred on corporations under the laws of this State, have the following powers:

1. To expend such sums of money from its treasury as the directors shall deem proper, in making preliminary examinations and surveys for its proposed railroad or railroads, line or lines of telegraph, and of steamboats or sailing vessels, and in acquiring from foreign countries, nations or governments, the grants, concessions and privileges as below named.

2. To take and receive from foreign countries, nations and governments, such grants, concessions or privileges for the construction, acquisition, maintenance and operation of railroads, telegraph lines and vessels, as may be consistent with the purposes of the corporation, and as may be granted or conceded to such company, and to hold the same under such restrictions and with such duties and liabilities as may be fixed by the laws of such foreign country, nation or government, or as may be annexed to such grants or concessions.

3. To construct, acquire, maintain and operate the lines of railroad, telegraph and shipping provided for by its articles of association, and to take and convey persons and property on their said transportation lines by the power or force of steam or of animals, or by mechanical or other power, and receive compensation therefor, regulating the time and manner in which passengers and property shall be transported, and the compensation to be paid therefor, in accordance with the laws of the place or country where the same are situated.

4. To take and hold by purchase or by voluntary grant such real estate and other property in foreign countries as may be necessary or convenient for the construction, maintenance and accommodation of its said lines, and to sell and convey, or to mortgage, or to lease such real estate or other property, so acquired in foreign countries; but such corporation shall be subject to such duties, liabilities and restrictions as to the transfer of its property by deed, mortgage, lease or otherwise,

in foreign countries, as may be fixed by the country in which the same may be located.

5. To purchase, hold and use such real estate and other property in this State as may be necessary for the conduct of its business, provided that such company shall not hold real estate in this State exceeding in value the sum of \$1,000,000.

6. To acquire, by purchase or otherwise, any railroad or railroads, or line or lines of telegraph constructed, or in process of construction in any foreign country or countries, and any grants, concessions, franchises, rights, privileges and immunities relating thereto, and also to mortgage or to sell and convey to any person or persons, or any corporation or corporations created by this or any other State, or any foreign government, the whole or any part of the railroad or railroads, line or lines of telegraph, steamboats, sailing vessels, grants, concessions, franchises, rights, privileges, immunities and other property of any sort or description held or owned, or to be acquired by it; provided, however, that the powers of sale in this clause granted shall only be exercised by a majority of the entire board of directors of said corporation, with the concurrence, in writing, of the holders of two-thirds in amount of the capital stock thereof. (*Added by chap. 369, Laws of 1885.*)

When company may proceed to organize.

§ 6. Upon the issue of the certificate named in section 2, any corporation formed under the provisions of this act may proceed to organize, and for that purpose the first meeting of such corporation shall be called by a notice signed by a majority of the directors named in such articles, stating the time, place and purpose of such meeting; a copy of which notice shall, at least five days before the day appointed for such meeting, be delivered personally to each subscriber, or left at his usual place of business or residence, or deposited in the post-office prepaid and directed to him at his last known post-office address. There shall be recorded upon the minutes of the corporation an affidavit of such service of the said notice.

When to open subscription books.

§ 7. When any corporation formed under this act shall have been organized, the board of directors for the time being of such company may, in case the whole of the capital stock is not before subscribed, open books of subscription to fill up the capital stock of the company in such places and after giving such notices as they may deem expedient, and may continue to receive such subscription until the whole capital stock is subscribed. At the time of making subscriptions in pursuance of the provisions of this section, every subscriber shall pay to the directors ten per centum of the amount subscribed by him in money, and no such subscription shall be received or taken without such payment.

Payment of subscriptions to stock.

§ 8. The board of directors for the time being of any corporation formed under this act may require the subscribers to the capital stock of the company to pay the amounts by them respectively subscribed, in such manner and in such installments as they may deem proper. If any stockholder shall neglect to pay any installments as required by resolution of the board of directors, the said board shall be authorized to declare his stock and all previous payments thereon forfeited for the use of the company; but they shall not declare it so forfeited until they shall have given a notice in writing to be served upon him personally, or by depositing the same in the post-office, properly directed to him at the post-office nearest his usual place of residence, stating that he is required to make such payment at the time and place specified in said notice, and that if he fails to make the same, his stock and all previous payments thereon will be forfeited to the use of the company, which notice shall be served as aforesaid at least thirty days previous to the day upon which such payment is required to be made.

Principal office, etc.; annual meeting; number of directors to be chosen.

§ 9. Every corporation formed under this act shall maintain its principal office within this State, and shall there have during business hours an officer or agent upon whom service of process may be made, and shall hold in this State at least one meeting of its stockholders in each year, for the choice of directors. Such meeting shall be known as the annual meeting, and shall be held at such time and place as shall be established by the by-laws of such company. At such meeting the stockholders shall fix the number of directors for the ensuing year, which

number shall not be less than seven ; and in the absence of any other direction by the stockholders, seven shall be chosen.

Meeting of stockholders, etc.

§ 10. At all meetings of the stockholders of any corporation formed under this act, each stockholder shall be entitled to one vote personally or by proxy on every share held by him thirty days previous to such election. The inspectors of each election shall be appointed by the board of directors for the time being, or if no such appointment be made by the board, then by the president. No person shall be elected a director, or continue to be such director, unless he shall be a stockholder, owning stock absolutely in his own right, and at every election of directors the books and papers of such company shall be exhibited to the meeting, if a majority in amount of the stockholders present shall require it.

Reduction or increase of capital stock ; amended articles of association.

§ 11. Any corporation formed under this act may, from time to time, at any regular or special meeting of the board of directors, reduce the amount of the capital stock or increase the same, or may otherwise alter and amend its articles of association, provided in either case that the consent in writing of the stockholders owning two-thirds of the capital stock of the company shall have been first obtained to such increase or diminution of the capital stock, or to such alteration of the articles of association. If any increase or reduction of the capital stock is made, or any other amendment made to the articles of association, a certificate of the fact, signed by the president and secretary of the corporation, shall, within thirty days thereafter, be filed in the office of the Secretary of State. The directors of any corporation organized under this act, in whose original certificate of incorporation any informality may exist, are hereby authorized to make and file amended articles of association to conform to the provisions of this act, and upon making and filing such amended articles of association, such corporation shall, for all purposes, be deemed and taken to be a corporation from the time of the filing of the original articles.

Stock to be personal estate.

§ 12. The stock of every corporation formed under this act shall be deemed personal estate, and shall be transferable in the manner prescribed by the by-laws of the company ; but no share shall be transferable until all previous calls thereon shall have been fully paid in, and it shall not be lawful for such company to use its funds in the purchase of any stock of its own or any other corporation, except so far as the same may be agreed upon in its articles of association.

Subject to taxation.

§ 13. All corporations formed under the provisions of this act shall be subject to taxation upon the amount of the real or personal property owned by such corporations within this State.

CHAP. 361, LAWS OF 1883.

AN ACT to amend chapter 119 of the Laws of 1875, entitled "An act to amend chapter 146 of the Laws of 1872, entitled 'An act to authorize corporations to hold and convey real estate for business purposes, in other States, with the consent thereof.'"

Corporations may acquire and hold real estate in other States and foreign countries.

SECTION 1. Section one of chapter one hundred and nineteen of the laws of eighteen hundred and seventy-five, entitled "An act to amend chapter one hundred and forty-six of the laws of eighteen hundred and seventy-two, entitled 'An act to authorize corporations to hold and convey real estate for business purposes, in other States, with the consent thereof,'" is hereby amended so as to read as follows:

§ 1. Section one of chapter one hundred and forty-six of the laws of eighteen hundred and seventy-two, entitled "An act to authorize corporations to hold and convey real estate for business purposes, in other States, with the consent thereof," is hereby amended as follows:

§ 1. It shall be lawful for any corporation organized under the laws of this State, and transacting business in it and other States, or foreign countries, except savings banks, to acquire, hold and convey in such States or foreign countries,

with the consent thereof, such real estate as shall be requisite for such corporation, in the convenient transaction of its business, and to invest its funds in the stocks, bonds or securities of other corporations owning lands situated in this State or such States, provided that loans shall not be made on any stocks upon which dividends shall not have been declared continuously for three years, immediately before such loans are made; and provided further that such stocks shall be continuously of a market value twenty per cent greater than the amount loaned or continued thereon.

Repeal.

§ 2. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

CHAP. 573, LAWS OF 1868.

AN ACT to afford the same facilities to passengers or property transported by steamboat on the Hudson river as is afforded by railroads.

Steamboats authorized to furnish tickets.

SECTION 1 The proprietors of any steamboat, or line of steamboats, navigating the Hudson river are hereby authorized and empowered to furnish tickets upon being paid therefor, for the transportation of passengers from any station on the line of any railroad terminating at the city of Albany or Troy, for the conveyance of such passengers from the city of Albany or Troy, to the city of New York on their said steamboats. On such tickets being furnished to any such railroad company, it shall be their duty to require their ticket agent, at any station on the line of their road, to sell such tickets, and to any passenger who shall make application therefor, at a price which shall be equal to the amount of fare charged upon such road to the city of Albany or Troy, with the addition of such price as shall be fixed by the proprietor of such steamboat for the transportation of such passenger from Albany or Troy to New York.

Baggage checks.

§ 2. The proprietors of said steamboat, or line of steamboats, are also authorized and empowered to furnish baggage checks for the transportation of any passenger's baggage through to the city of New York by the way of their said steamboats, and on such checks being furnished to the baggage-master, at any station on the line of said railroads, it shall be his duty to check baggage on the application of any passenger through to the city of New York, which baggage, on its arrival in the city of Albany or Troy, shall be delivered up to the authorized agent of any steamboat, or line of steamboats, to be transported from the railroad to the steamboat on which such passenger contemplates going, without the check being removed from such baggage. And said baggage shall be transported from railroad station to steamboat landings, and from steamboat landings to railroad station by said steamboat owners, free of charge.

Railroads to furnish tickets.

§ 3. It is hereby made the duty of every railroad company which terminates at the city of Albany or Troy, on application being made therefor by the proprietor of any steamboat or line of steamboats, navigating the Hudson river, to furnish them with tickets for the transportation of passengers from the city of Albany or Troy to any point on the line of their respective roads, to be sold by such steamboat proprietors in their respective offices, and to receive and transport the baggage of any passenger which shall be checked through to any point beyond the city of Albany or Troy; such tickets to be sold and paid for to the railroad or steamboat company which shall furnish the same at the price charged by such company for the conveyance of such passenger to the place which such ticket purports to carry him. The object and intent of this act being to compel railroad companies to furnish the same facilities to passengers going to or from the city of New York by boat as is afforded those who go by the railroad.

Transfer of freight.

§ 4. If any freight shall be delivered at any station on the line of any railroad which terminates in the city of Albany or Troy for transportation to the city of New York, which is marked to go to New York via boat or any particular line of boats, it shall be the duty of the railroad company to whose agent such freight shall be delivered to receive the same and transport it with all convenient speed to the city of Albany, and on its arrival there, the company over whose road the same has been transported shall forthwith cause to be notified the agent of the steamboat line by which it is directed to be sent and shall deliver the same to such agent with the bill of charges thereon due such railroad company, for the payment of which charges the proprietor or proprietors of such steamboat line shall be responsible. But the railroad company transporting such freight shall not charge for its transportation over its road any greater sum than they charge for carrying the same kind of freight the same distance over their road if the same were transported from Albany or Troy to New York by railroad, and any freight delivered by the authorized agent of any steamboat or steamboat company for transportation over any railroad which shall have been brought from New York by boat shall be transported by such railroad company to its place of destination for the same price as it would be if brought from New York by railroad.

Penalty.

§ 5. Any railroad company in this State, whose agent or servants shall neglect or refuse to sell tickets or furnish a check as is provided for in this act, when the same shall have been furnished them, shall be liable to the same penalty as is provided for in section 37 of the act passed April second, 1850, entitled "An act to authorize the formation of railroad corporations, and to regulate the same," and no fare or toll shall be collected or received from any passenger whose application for such ticket or check shall have been refused, for riding over the road of said company, and in addition thereto, the said railroad corporation shall be liable to a penalty of \$250, to be recovered in the name of the proprietor or proprietors of any steamboat line navigating the Hudson river in any court of competent jurisdiction for each day they shall neglect or refuse to comply with the provisions of this act, unless such neglect or refusal is caused by a failure on the part of such steamboat proprietor or proprietors to furnish tickets and checks as herein provided for.

Limitation.

§ 6. The provisions of this act, so far as relates to the sale of tickets and furnishing of checks, shall not apply to either the Hudson River or New York and Harlem Railroad Companies.

CHAP. 273, LAWS OF 1822.

AN ACT to extend the operation and effect of chapter 40 of the Laws of 1848, entitled "An act to authorize the formation of corporations for manufacturing, mining, mechanical or chemical purposes," and of the several acts supplementary thereto and amendatory thereof.

Corporators ; purpose.

SECTION 1. Any three or more persons may organize themselves into a corporation in the manner specified and required in and by chapter 40, Laws of 1848, entitled "An act to authorize the formation of corporations for manufacturing, mining, mechanical or chemical purposes," for the purpose of purchasing, acquiring, building upon and improving real estate for union railway depots, to be leased and occupied by any railroad company or companies owning, leasing or operating a railroad within this State. The corporations so formed shall be subject to all the privileges and obligations of the act aforesaid, and all acts amendatory thereof, or supplementary thereto, and shall have power to take and hold by purchase, contract or lease, and convey such real estate as shall be necessary to carry out the objects of said corporation.

Railroad corporation may take and hold stock.

§ 2. Any railroad corporation, created under and by the laws of this State or of any adjoining State, is hereby authorized to subscribe for, take and hold the stock of corporations created under and by virtue of this act in such amounts as the directors of the said subscribing corporation may, from time to time, deem best for its interests.

Directors may make rules and regulations.

§ 3. The directors of any corporation, organized under and in pursuance of this act, may, from time to time, make such just, proper and needful rules and regulations for the use of the union depot or depots owned or acquired by it as the said directors, or a majority of them, may, from time to time, seem proper.

CHAP. 218, LAWS OF 1839.**AN ACT authorizing railroad companies to contract with each other.****Companies may contract.**

SECTION 1. It shall be lawful hereafter for any railroad corporation to contract with any other railroad corporation for the use of their respective roads, and thereafter to use the same in such manner as may be prescribed in such contract. But nothing in this act contained shall authorize the road of any railroad corporation to be used by any other railroad corporation, in a manner inconsistent with the provisions of the charter of the corporation whose railroad is to be used under such contract.

CHAP. 254, LAWS OF 1867.**AN ACT in relation to railroads held under lease.****Lessees of railroad may acquire stock therein.**

SECTION 1. Any railroad corporation created by the laws of this State, or its successors, being the lessee of the road of any other railroad corporation, may take a surrender or transfer of the capital stock of the stockholders, or any of them in the corporation whose road is held under lease, and issue in exchange therefor the like additional amount of its own capital stock at par, or on such other terms and conditions as may be agreed upon between the two corporations; and whenever the greater part of the capital stock of any such corporation shall have been so surrendered or transferred, the directors of the corporation taking such surrender or transfer shall thereafter, on a resolution electing so to do, to be entered on their minutes, become *ex-officio* the directors of the corporation whose road is so held under lease, and shall manage and conduct the affairs thereof, as provided by law; and whenever the whole of the said capital stock shall have been so surrendered or transferred, and a certificate thereof filed in the office of the Secretary of State, under the common seal of the corporation to whom such surrender or transfer shall have been made, the estate, property, rights, privileges and franchises of the said corporation whose stock shall have been so surrendered or transferred, shall thereupon vest in and be held and enjoyed by the said corporation, to whom such surrender or transfer shall have been made, as fully and entirely, and without change or diminution, as the same were before held and enjoyed, and be managed and controlled by the board of directors of the said corporation, to whom such surrender or transfer of the said stock shall have been made, and in the corporate name of such corporation. The rights of any stockholder not so surrendering or transferring his stock shall not be in any way affected hereby, nor shall existing liabilities or the rights of creditors of the corporation, where stock shall have been so surrendered or transferred, be in any way affected or impaired by this act. (*Thus amended, Laws of 1879, chap. 508*)

CHAP. 302, LAWS OF 1855.

Lessee of corporation may take, surrender or transfer capital stock of leased road and issue in exchange therefor like amount of its own capital stock at par in certain cases — effect thereof.

SECTION 1. Any railroad corporation created by the laws of this State, or its successors, now being the lessee of the road of any other railroad corporation, may take, surrender, or transfer of the capital stock of the stockholders, or any of them, in the corporation whose road is held under lease, and issue in exchange therefor the like additional amount of its own capital stock at par, or on such other terms and conditions as may be agreed upon between the two corporations: and whenever the greater part of the capital stock of any such corporation shall have been so surrendered or transferred, the directors of the corporations taking such surrender or transfer shall thereafter, on a resolution electing so to do, to be entered on their minutes, become *ex officio* the directors of the corporation whose road is so held under lease, and shall manage and conduct the affairs thereof, as provided by law; and whenever the whole of the said capital stock shall have been so surrendered or transferred, and a certificate thereof filed in the office of the Secretary of State, under the common seal of the corporation to whom such surrender or transfer shall have been made, the estate, property, rights, privileges and franchises of the said corporation, whose stock shall have been so surrendered or transferred, shall thereupon vest in, and be held and enjoyed by the said corporation to whom such surrender or transfer shall have been made, as fully and entirely, and without change or diminution, as the same were before held and enjoyed, and be managed and controlled by the board of directors of the said corporation to whom such such surrender or transfer of the said stock shall have been made, and in the corporate name of such corporation. The rights of any stockholder, not so surrendering or transferring his stock, shall not be in any way affected hereby; nor shall existing liabilities, or the rights of creditors of the corporation whose stock shall have been so surrendered, be in any way affected or impaired by this act.

Not to apply to Genesee Valley railroad.

§ 2. This act shall not be construed as applying to or embracing the Rochester and Genesee Valley railroad, nor any part thereof and said road is hereby expressly excepted from the operation of the same.

CHAP. 349, LAWS OF 1880.

AN ACT relating to leases of railroads and railroad property within this State.

Lease of railroads not exceeding ten miles in length.

SECTION 1. Whenever any railroad, or railroad route not exceeding ten miles in length, and its franchises within this State has been heretofore leased by one railroad company or corporation to any other railroad company or corporation with the assent of a majority in amount of the stockholders of the company owning such leased railroad or railroad route and franchises, it shall be immaterial whether the assent of said stockholders has been obtained at a stockholders' meeting, or has been individually given in writing; and the leases of all such railroads within this State, which have received such assent of a majority in amount of the individual stockholders of the company or corporation owning the leased road, are hereby declared to be as legal and valid as they would have been had such assent been given at a stockholders' meeting regularly called for that purpose. And any railroad company now engaged in operating any railroad so leased may continue to use and operate the same during the term of the lease, upon complying with the terms, covenants and provisions of such lease; and to that end all such leases are hereby ratified and confirmed.

CHAP. 582, LAWS OF 1864.

AN ACT to amend an act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1860.

(Section 1 amends subdivision 5 of section 28, General Railroad Act of 1850.)

Lessees of railroad corporations to maintain fences; cattle-guards.

§ 2. And when the railroad of any railroad corporation shall be leased to any other railroad company, or to any person or persons, such lessee shall maintain fences on the sides of the road so leased, of the height and strength of a division fence, as required by law, with openings, or gates, or bars therein, at the farm crossings of such railroad, for the use of the proprietors of the lands adjoining such railroads, and shall also construct, where the same has not already been done, and hereafter maintain cattle-guards at all road crossings, suitable and sufficient to prevent horses, cattle, sheep and hogs from getting on to such railroad. And so long as such fences and cattle-guards shall not be made, and when not in good repair, such lessees and their agents shall be liable for damages which shall be done by the agents or engineers of any such corporation, to any cattle, horses, sheep or hogs thereon; and when such fences and guards shall have been duly made, and shall be kept in good repair, such lessee shall not be liable for any such damages, unless negligently or willfully done. A sufficient post and wire fence of requisite height shall be deemed a lawful fence, within the provisions of this section; but no lessees of a railroad corporation shall be required to fence the sides of said roads except when such fence is necessary to prevent horses, cattle, sheep and hogs from getting on to the track of the railroad, from the lands adjoining the same.

Drinking water to be kept in cars; where main route of road does not exceed twenty miles board of directors may consist of seven of its stockholders.

§ 3. Every railroad company whose line of road shall exceed forty continuous miles in length shall, for the better comfort of passengers, provide in each passenger car a suitable receptacle for water, with a cup or drinking utensil attached upon or near such receptacle, and shall keep the said receptacle while said car is in use constantly supplied with cool water; and any company failing to obey the provision of this section shall, for each offense of omission as aforesaid, forfeit as a penalty the sum of \$25; one-half of said penalty to be paid to the informer, and the remaining one-half to the overseer of the poor of the county in which judgment shall have been recovered, and any railroad company whose main route of road does not exceed twenty miles may have a board of directors to manage its affairs, consisting of seven of its stockholders, to be chosen in the manner provided by law. (*Thus amended by chap. 46, Laws of 1883.*)

(The remaining sections of this act amend the General Railroad Act.)

CHAP. 844, LAWS OF 1869.

AN ACT to amend an act entitled "An act in relation to railroads held under lease," passed April 3, 1867.

Report to State Engineer.

SECTION 1. Any railroad corporation which may be the lessee of any other railroad shall, in addition to the powers and duties conferred and imposed by the act entitled "An act in relation to railroads held under lease," passed April 3, 1867, be required to make to the State Engineer a report of such facts concerning the operation of said leased road or roads as the lessors would otherwise be required to make, and the lessors shall not be required to make such report.

CHAP. 230, LAWS OF 1845.

AN ACT in relation to the contracts of railroad companies.

Limitation to amount of debt.

SECTION 1. No debt or debts shall be contracted or incurred by or on behalf of any incorporated railroad company beyond or exceeding its available means in its possession, under its control and belonging to it, including its *bona fide* and available stock subscriptions and exclusive of its real estate, at the time the same shall be contracted or incurred, to pay and discharge the same and all its debts previously contracted or incurred; and every officer, agent or stockholder of said company who shall knowingly assent to, or have any agency in contracting or incurring any debt, in violation of the provisions of this section, shall be personally and individually liable to pay such debt; and shall also be liable to arrest and imprisonment in any action for the same, and on any execution issued on any judgment obtained for the same, in the same manner as defendants in actions of trespass are now liable, and shall also be deemed guilty of a misdemeanor; but the debts contracted in violation of the provisions of this section shall not be deemed invalid as against said company by reason thereof; provided that nothing herein contained shall apply to any loan which any company shall be expressly authorized by law to make over and above the available means aforesaid.

CHAP. 383, LAWS OF 1883.

AN ACT entitled "An act relating to certain contracts for the lease or conditional sale of railroad equipment and rolling stock, and providing for the record thereof."

Conditional sale of equipment and rolling stock to be invalid as to judgment creditors and purchasers without notice unless evidenced in writing and recorded.

SECTION 1. Whenever any railroad equipment and rolling stock shall hereafter be sold, leased or loaned on the condition that the title to the same, notwithstanding the possession and use of the same by the vendee, lessee or bailee, shall remain in the vendor, lessor or bailor, until the terms of the contract as to the payment of the installments, amounts or rentals payable, or the performance of other obligations thereunder shall have been fully complied with, but also providing that title thereto shall pass to the vendee, lessee or bailee on full payment therefor as aforesaid, such contract shall be invalid as to any subsequent judgment creditor or any subsequent purchaser for a valuable consideration without notice, unless

1. The same shall be evidenced by writing, duly acknowledged before some person authorized by law to take acknowledgments of deeds.

2. Such writing shall be recorded in the same book as mortgages are recorded, in the office of the clerk of the county in which is located the principal office or place of business of such vendee, lessee or bailee within the State, or in the office of the register in counties where there is a register's office.

Name of vendor, etc., to be on locomotive or car, etc.

3. Each locomotive or car so sold, leased or loaned shall have the name of the vendor, lessor or bailor, or the assignee of such vendor, lessor or bailor, plainly marked upon both sides thereof, followed by the word owner, lessor, bailor or assignee, as the case may be.

Not to invalidate any contract heretofore made if recorded within ninety days.

§ 2. This act shall not be held to apply to or invalidate any contract heretofore made of the character described in the first section, but the same shall be and remain valid if recorded within ninety days from the date hereof.

CHAP. 488, LAWS OF 1885.

AN ACT to amend chapter 315 of the Laws of 1884, entitled "An act requiring contracts for the conditional sale of personal property on credit to be filed in the town clerks' and other offices."

Amending section 2, chapter 315, Laws 1884.

SECTION 1. Section 2 of chapter 315 of the Laws of 1884, entitled "An act requiring contracts for the conditional sale of personal property on credit to be filed in the town clerks' and other offices," is hereby amended so as to read as follows:

Instruments, where to be filed.

§ 2. The instruments mentioned in the preceding section shall be filed in the several towns and cities of this State, where the person to whom such property is so contracted to be sold, if a resident of this State, shall reside at the time of the execution thereof; and if not a resident, then in the city or town where the property so contracted to be sold shall be at the time of the execution of such instrument. In the city of New York such instrument shall be filed in the office of the register of the city, and in the county of Kings in the office of the register of said county. In the several cities of this State other than the cities of New York and Brooklyn, and in the several towns of this State in which a county clerk's office is kept, in such office; and in each of the other towns in this State, in the office of the town clerk thereof. If the conditional vendee be a railroad corporation, the instrument mentioned in the preceding section shall be filed in the office of the clerk of each county through which its railroad is located, or, in counties where there is a register, in the office of the register, and such filing shall be deemed sufficient for all the purposes of this act. Such registers and clerks are hereby required to file all such instruments aforesaid, presented to them respectively for that purpose, and to indorse thereon the time of receiving the same, and shall deposit the same in their respective offices, to be kept there for the inspection of all persons interested.

CHAP. 215, LAWS OF 1846.**AN ACT to incorporate the New York and Connecticut Railroad Company.****Every railroad company required to contract for carrying the United States mail; penalty.**

Sections 1 to 16, both inclusive, relate to the New York and Connecticut Railroad Company.

§ 17. Every railroad company, upon being thereto required by the Postmaster-General of the United States, shall enter into a contract with the United States, in the usual form, and with the usual conditions of such contracts, for transporting the mails of the United States upon its railroad for such compensation as the said board shall deem reasonable, not exceeding that provided by an act of Congress entitled "An act to reduce the rates of postage, to limit the use and correct the abuse of the franking privileges, and for the prevention of frauds on the revenues of the post-office department," approved March 3, 1845; and every railroad company that shall neglect or refuse to enter into such contract, upon being so required, shall forfeit and pay the people of this State \$100 for every day it shall so neglect or refuse.

* * * * *

CHAP. 270, LAWS OF 1847.**AN ACT relating to the transportation of freight on certain railroads.**

(Sections 1 and 2 are of a local nature, and are, therefore, omitted; sections 3 to 7, both inclusive, relate to tolls on railroads abolished by chapter 497, Laws of 1857; see page hereof.)

Saving clause.

§ 8. No provision of the preceding sections of this act shall be deemed in any way to affect the ordinary baggage of passengers, provided the same shall not exceed in weight 100 pounds.

Rights of railroad companies.

§ 9. Any railroad company receiving freight for transportation shall be entitled to the same rights and be subject to the same liabilities as common carriers. Whenever two or more railroads are connected together, any company owning either of said roads receiving freight to be transported to any place on the line of either of the said roads so connected shall be liable as common carriers for the delivery of such freight at such place. In case any such company shall become liable to pay any sum by reason of the neglect or misconduct of any other company or companies, the company paying such sum may collect the same of the company or companies by reason of whose neglect or misconduct it became so liable.

CHAP. 364, LAWS OF 1882.

AN ACT to regulate the interchange of freight and passengers between the Central Vermont railroad and the Ogdensburgh and Lake Champlain railroad at Rouse's Point.

Freight to be exchanged in same cars in which same is billed for transportation.

SECTION 1. All freight billed or consigned from points in this State, or from points on connecting railways to points reached by the Central Vermont railroad, and lines leased and managed by said Central Vermont railroad and Ogdensburgh and Lake Champlain railroad and their connections, shall be exchanged in the same cars in which said freight is billed for transportation to its destination, and no discrimination shall be made by either of the companies named in this act, on account of said cars belonging to different corporations or carrying through all rail or other freight. Provided said cars shall be in the condition required under the rules and regulations usual and in force among connecting railroads.

Cars offered by one company to another to be taken in the usual manner.

§ 2. All passenger, sleeping, baggage or other cars offered by one company to the other shall be taken in the same manner as is usual in the interchange of through passenger cars by connecting railroads.

No additional charge to be made.

§ 3. No additional charge shall be made by reason of one company taking from the other for transportation to destination any cars, freight or passengers under the provisions of this act.

Penalty for violation of this act.

§ 4. Either of the companies named in this act violating the provisions of the same shall forfeit to the other as liquidated damages for each case of refusal or neglect to comply with the terms of this act the sum of \$500.

CHAP. 272, LAWS OF 1847.

AN ACT to authorize railroad companies to lay down upon their roads the heavy iron rail, to alter the line of their road, and to acquire the title to lands which have failed.

(Sections 1 and 2 are now obsolete, and are therefore omitted.)

Provision to enable companies to acquire valid title to land.

§ 3. In any case where a railroad shall not have acquired a valid and sufficient title to any land upon which they may have constructed their tracks, or where the title to any such lands has been or shall hereafter be rendered invalid by reason of any mortgage, judgment or other lien affecting the same, then such company in either case is authorized to obtain and acquire title to the said land by purchase of the persons, bodies corporate or politic, owning the same, or having an interest therein, if such purchase can be effected by agreement between the owners thereof and such company; but if not, such company shall have the power to cause compensation to be made therefor, and for that purpose they shall present a petition to a court of record in the county in which such land may lie, setting forth the failure of such title, and the manner in which such failure occurred, and the name and residence of the owner or claimants, and praying for the drawing of a jury to determine the compensation to be made therefor. The said court of record shall thereupon direct notice to be given, in writing, to the owners or claimants of such lands, of the time and place of the drawing of such jury, which drawing shall be in the county in which such lands are situated, and upon proof of the service of such notice and hearing, the parties who may attend such court of record shall cause such jury to be drawn in such manner and at such place as it shall direct; said court shall cause the said jury to be sworn, and shall prescribe the time and place of the meeting of said jury, and the notices to be given to the owners or claimants of the proceedings before said jury. The said jury shall view the premises for which compensation is to be made, and shall, without fear, favor or partiality, determine the compensation to be made for said land, the title to which shall have become invalid or insufficient as aforesaid, and may hear and examine witnesses on oath in relation to the same. The said jury shall make an inquisi-

tion of their appraisalment or assessment, and shall cause the same to be filed in the office of the clerk of the county in which such land is situated. Upon proof to the court, within thirty days after the filing of the inquisition of the jury, of payment to the owner or claimant, or of depositing to his or their credit in such bank as the said court shall direct, of the amount of such appraisalment, and of all the costs and expenses attending it, including reasonable counsel fees (to be taxed and certified by said court), the said court shall make an order describing the land and reciting the assessment or appraisalment thereof; and the mode of making it, which order shall be recorded in the office of the clerk of the county in which the land is situated, in like manner as if the same were a deed of conveyance, and such railroad company or corporation shall thereupon become possessed of such land during the continuance of the corporation, and may use the same for the purposes of such corporation. This provision shall not be construed to change or impair the duties or obligations of such corporation in regard to fencing said land, or making and maintaining crossing places over said road, as prescribed in their charter; but nothing herein contained shall be construed to impair or affect the right of any individual to recover the costs and expenses of any legal proceedings commenced prior to the passage of this act, or to recover such sum for the use of any land occupied by such corporation as he or she is entitled to by law.

(Section 4, as to change of line, and section 5, as to weight of rails, etc., omitted as unimportant.)

Checks to be furnished and attached to each parcel of baggage; when baggage to be given to owner.

§ 6. It shall be the duty of every railroad company hereafter to furnish and attach checks to each separate parcel of baggage which they, by their agents or officers, receive from any person for transportation as ordinary or extraordinary baggage, in their baggage cars accompanying their passenger trains, and they shall also furnish to such a person a duplicate check or checks, having upon it or them a corresponding number to that attached to each parcel of baggage; said checks and duplicates shall be made of some proper metallic substance of convenient size and form, plainly stamped with numbers, and each check furnished with a convenient strap or other appendage for attaching to baggage, and accompanying it a duplicate to be delivered, to the person delivering or owning such baggage; and whenever the owner of said baggage or other person shall, at the place where the cars usually stop, to which said baggage was to be transported, or at any other regular stopping-place, present said duplicate check or checks to the officer or agent of the railroad, or any railroad over any portion of which said baggage was transported, they shall deliver it up to the person so offering the duplicate check or checks without unnecessary delay; and a neglect or refusal on the part of any railroad company, its officers or agents, to furnish and attach to any person's ordinary traveling baggage, or extraordinary baggage if conveyed by their passenger train, a suitable check or checks, and to furnish to such person proper duplicate or duplicates, shall forfeit and pay to such person or owner, for every such refusal or neglect, the sum of \$10, to be recovered in an action for debt.

(Chapter 404, Laws of 1847, being an act to enable railroad companies to alter their routes and acquire title to land, is omitted as being generally obsolete.)

(Chapter 405, Laws of 1847, being an act to authorize certain railroad companies to issue stock or to borrow money to lay a second track, is omitted as being generally obsolete.)

CHAP. 444, LAWS OF 1857.

AN ACT further to amend the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850.

Mortgage sales.

SECTION 1. It shall be lawful for any mortgagee of any railroad and the franchise thereof to become the purchaser of the same, at any sale thereof under the mortgage upon foreclosure, by advertisement, or under a judgment or decree, or

otherwise, and to hold and convey the same, with all the rights and privileges belonging thereto or connected therewith.

Special estates, how acquired.

§ 2. Whenever there shall be one or more of the estates enumerated in article 1 of title 2 of chapter 1 of the second part of the Revised Statutes, entitled "Of the creation and division of estates," in any land required by any railroad company for the purpose of its incorporation, such company may acquire such estate and land by means of the special proceedings authorized by the act hereby amended. In every such case the railroad company, in addition to the statements now required by said act, shall set forth and state in its petition the facts in relation to any such estate, and the person, persons or class of persons, then in being or not in being, who are or may become entitled, in any contingency, to any estate as aforesaid in such land, and may pray that such estate may be acquired, and such persons may be bound by the said proceedings; and thereupon the court to whom such petition is presented, if there be no attorney appearing in their behalf, shall appoint some competent and disinterested attorney or officer of the court to appear in such proceedings and represent the rights, interests and estate of the person, persons, or class of persons aforesaid in any such land, and to protect the same, on the appraisal and proceedings aforesaid; and it shall be the duty of the court, on or after the confirmation of the report of the appraisal, to ascertain by such report, or by a reference for that purpose, or otherwise, in its discretion, the rights, interests and estate of such person, persons or class of persons, in the land so appraised, and in the compensation awarded therefor, and to make an order determining the amount or share of such compensation to which such person, persons or class of persons are, or may become, entitled on account of such estate, as the same shall arise or become vested in them respectively, and to direct, and to provide for the payment, investment or securing thereof, for the benefit of the person, persons or class of persons aforesaid, who are, or may in the contingency upon which such estate arises, become entitled thereto; upon the company paying or securing such amount or share, in the manner directed by such order of the court, it shall be deemed to have acquired, and shall be vested with the estate which such person, persons or class of persons have, or may be entitled to in said land, and they shall be barred of and from all right or claim in and to such land. Any railroad corporation in this State may acquire the title in fee, by the special proceedings hereinbefore mentioned, to any land which it may require for roadway and for necessary buildings, depots and freight grounds.

Sale of unclaimed baggage and freight authorized; notice of sale to be published; money arising therefrom to be deposited with Comptroller; notice of sale must be served on Comptroller.

§ 3. Every railroad or other transportation company incorporated under the laws of this or any other State, and doing business within this State, which shall have had unclaimed freight or baggage not perishable, in its possession for the period of at least one year, may proceed and sell the same at public auction, after giving notice to that effect in the State paper once a week for not less than four weeks, and for a like period in a newspaper other than the State paper published at the place designated for the sale, and also in one published in the city of New York (said notice shall contain, as near as practicable, a description of such freight or baggage, the place and time when left, together with the name of the owner of the freight, or person to whom consigned, if the same be known). All moneys arising from the sale of freight or baggage as aforesaid, after deducting therefrom charges and expenses for transportation, storage, advertising, commissions for selling the property, and the amount previously paid for the loss or non-delivery of freight or baggage, shall be deposited by the company making such sale, accompanied with a report thereof, and proofs of advertisement, with the Comptroller, for the benefit of the general fund of the State, and shall be held by him in trust for reclamation by the persons entitled, or who may become entitled, to receive the same. No sale as herein provided shall be valid unless a copy of the notice above specified shall be served upon the Comptroller for at least two weeks prior to the time designated for such sale. (*Thus amended, chap. 444, Laws 1884.*)

Disposition of unclaimed baggage and perishable freight.

§ 4. In case such unclaimed freight or baggage shall, in its nature, be perishable, then the same may be sold as soon as it can be, at the best terms that can be obtained.

CHAP. 198, LAWS OF 1876.

AN ACT to amend chapter 140 of the Laws of 1850, entitled "An act to authorize the formation of railroad corporations, and to regulate the same."

(Section 1 amends section 18 of the General Railroad Act.)

Notice when the land required forms part of street.

§ 2. Whenever any land required by a railroad company for the purposes of its road is contained in, or forms a part of any street or avenue in any city or village in which the owners of adjoining lands on the line of such street or avenue claim a right of property or the fee thereof, in such case the notice to be given of the application for the appointment of commissioners under the special proceedings under the act to acquire title to such land, as well as the notice of hearing before such commissioners, shall be served by the publication of the said notice twice each week, for three weeks, in at least two newspapers published in the county in which such city or village is located, to be designated by the court to which the said application is to be made.

(Chapter 395, Laws of 1879, authorizes elevated railroads to increase directors.)

CHAP. 53, LAWS OF 1853.

AN ACT to amend an act entitled "An act in relation to railroad corporations," passed February 13, 1851.

Appointment of commissioners amending section three of the act of 1851, by adding after the words "1848" the words "or an act to authorize the formation of railroad corporations and to regulate the same," passed April 2, 1850, etc.

SECTION 1. The third section is hereby amended by inserting after the word "1848" the words or "An act to authorize the formation of railroad corporations and to regulate the same," passed April 2, 1850, so that said section as amended shall read as follows: Any railroad company which, prior to the passage of this act, has been duly formed under the act entitled "An act to authorize the formation of railroad corporations," passed March 27, 1848, or "An act to authorize the formation of railroad corporations and to regulate the same," passed April 2, 1850, and which is duly continued in existence, when at least ten thousand dollars for every mile of its railroad, proposed to be constructed in this State, shall be in good faith subscribed to its capital stock, and ten per cent thereof paid in, may apply to the court for the appointment of commissioners, and all subsequent proceedings may be had to obtain the title to lands necessary for its construction, to the same extent and in the same manner as if the whole amount of the capital stock specified in its articles of association was in like manner subscribed.

CHAP. 300, LAWS OF 1837.

AN ACT relative to unclaimed trunks and baggage.

Description of same to be entered in a book.

SECTION 1. The proprietor or proprietors of the several lines of stages, and the proprietors of the several canal-boat lines, and the proprietors of the several steamboats, and the several incorporated railroad companies, and the keepers of the several inns and taverns within this State, who shall have any unclaimed trunks, boxes or baggage within his, their, or either of their custody, shall immediately enter the time the same was left, with a proper description thereof, in

a book to be by them provided and kept for that purpose. In case the name and residence of the owner shall be ascertained, it shall be the duty of such person who shall have any such property as above specified, to immediately notify the owner thereof by mail.

Description of property to be made and published in State paper.

§ 2. In case there shall not be any information obtained as to the owner, it shall be the duty of the person having the possession thereof, to make out a correct written description of all such property as shall have been unclaimed for thirty days, stating the time the same came into his possession, and forward said description to the editor of the State paper, whose duty it shall be, on the first Mondays of July, October, January and April, in each year, to publish the same in the State paper once a week for three weeks successively.

If not claimed for sixty days after said publication to be opened and examined and an inventory made; when to be sold at public auction upon what notice; disposition of proceeds.

§ 3. In case the said property shall remain unclaimed for sixty days after the said publication, it shall be the duty of the person or company having possession thereof, to apply to a magistrate of the town or city in which said property is retained, in whose presence and under whose direction said property shall be opened and examined, and an inventory thereof taken by said magistrate; and if the name and residence of the owner is ascertained by such examination, it shall be the duty of the magistrate forthwith to direct a notice thereof to such owner, by mail; and if said property shall remain unclaimed for three months after such examination, it shall be the further duty of the person or company having possession thereof to apply to a magistrate as aforesaid, and if said magistrate shall deem such property of sufficient value, he shall cause the same to be sold at public auction, giving six days' previous notice of the time and place of such sale; and from the proceeds of such sale he shall pay the charges and expenses legally incurred in respect to said property, or a ratable proportion thereof to each claimant, if insufficient for the payment of the whole amount; and the balance of the proceeds of such sale, if any, the said magistrate shall immediately pay to the overseers of the poor of said town or city, for the use of the poor thereof, and the said overseers shall make an entry of such amount, and the time of receiving the same, upon their official records, and it shall be subject, at any time within seven years thereafter, to be reclaimed by, and refunded to, the owner of such property, his heirs or assigns, on satisfactory proof of such ownership.

Expense; to be a lien on property.

§ 4. The person making the entry of unclaimed property as above specified shall be entitled to twelve and a half cents for each trunk, box, bale, package or bundle so entered, and shall have a lien on the property so entered until payment shall be made; and in case any additional expense shall be incurred for printing, the lien shall continue until payment shall be made for such additional expense.

Penalty.

§ 5. In case any person shall neglect or refuse to comply with the provisions of this act, he shall forfeit the sum of five dollars for each and every trunk, box or bundle of baggage so neglected as above specified, to the benefit of any person who shall sue for the same, in his own name, in an action of debt in any court having cognizance thereof.

CHAP. 779, LAWS OF 1868.

AN ACT in relation to mortgages executed by railroad companies.

Chattel mortgages.

SECTION 1. It shall not be necessary to file as a chattel mortgage, any mortgage

which has been, or shall hereafter be, executed by any railroad company upon real and personal property, and which has been or shall be recorded as a mortgage of real estate in each county in or through which the railroad runs.

CHAP. 430, LAWS OF 1874.

AN ACT to facilitate the reorganization of railroads sold under mortgage, and providing for the formation of new companies in such cases.

Purchasers to become a body politic and corporate by making and filing certificate.

SECTION 1. In case the railroad and property connected therewith, and the rights, privileges and franchises of any corporation, except a street railroad company, created under the general railroad law of this State, or existing under any special or general act or acts of the Legislature thereof, shall be sold under or pursuant to the judgment or decree of any court of competent jurisdiction made or given to execute the provisions or enforce the lien of any deed or deeds of trust, or mortgage theretofore executed by any such company, the purchasers of such railroad property and franchises, and such persons as they may associate with themselves, their grantees or assignees, or a majority of them, may become a body politic and corporate, and as such may take, hold and possess the title and property included in said sale, and shall have all the franchises, rights, powers, privileges and immunities which were possessed before such sale by the corporation whose property shall have been sold as aforesaid, by and upon filing in the office of the Secretary of State a certificate, duly executed under their hands and seals and acknowledged before an officer authorized to take the acknowledgment of deeds, in which certificate the said persons shall describe, by name and reference to the act or acts of the Legislature of this State under which it was organized, the corporation whose property and franchises they shall have acquired as aforesaid, and also the court by authority of which such sale shall have been made, giving the date of the judgment or decree thereof, authorizing or directing the same, together with a brief description of the property sold, and shall also set forth the following particulars :

Name of corporation.

1. The name of the new corporation intended to be formed by the filing of such certificate.

Capital stock.

2. The maximum amount of its capital stock and the number of shares into which the same is to be divided, specifying how much of the same shall be common, and how much preferred stock, and the classes thereof, and the rights pertaining to each class.

Number of directors.

3. The number of directors by whom the affairs of the said new corporation are to be managed, and the names and residences of the persons selected to act as directors for the first year after its organization.

Plans and agreements; effect of certificate, copy thereof, evidence; certificate to contain whole plan.

4. Any plan or agreement which may have been entered into pursuant to the second section hereof.

And upon the due execution of such certificate, and the filing of the same in the office of the Secretary of State, the persons executing such certificate, and who shall have acquired the title to the property and franchises sold as aforesaid, their associates, successors and assigns, shall become and be a body politic and corporate, by the name specified in such certificate, and shall become and be vested with, and entitled to exercise and enjoy all the rights, privileges and franchises,

which at the time of such sale belonged to or were vested in the corporation, which last owned the property so sold, or its receiver, and shall be subject to all the provisions, duties and liabilities imposed by the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, and of the acts amendatory thereof, except so far as said provisions, duties and liabilities may be inconsistent herewith, and with the last-named rights, privileges or franchises; and a copy of the said certificate, certified by the Secretary of State or his deputy, shall be presumptive evidence of the due formation of the new corporation therein mentioned, provided always that a majority of said persons shall be citizens and residents of this State. In the certificate so to be filed shall be inserted the whole of the plan or agreement in the next section referred to. And such plan, agreement and articles may regulate voting by and on the part of the holders of the preferred and common stock of said company, and may also allow, provide for and regulate voting at and in said meetings, and also for directors, by and on the part of the holders and owners of any or all of the bonds of the company foreclosed, or of the bonds issued or to be issued and payable by the new company, pursuant to any such plan, agreement or articles; such right of voting by bondholders to be in such manner, for such period or periods, and upon such conditions as said articles may authorize and declare; but such articles shall contain suitable provisions for such bondholders voting by proxy. Said articles shall not be inconsistent with the constitution or laws of this State, and shall be binding upon the company until changed as therein provided for, or until otherwise provided by law. (*Thus amended, Laws 1876. chap. 446.*)

When new corporation may issue bonds and stock; when it may compromise, etc., debt of former company; preferences in dividends.

§ 2. In case the persons organizing, or whose duty it may be to organize, the new corporation to be formed as provided in the first section of this act, shall have acquired title to the railroad property and franchises which may have been sold as in said section mentioned, pursuant to any plan or agreement for or in anticipation of the readjustment of the respective interests therein of the mortgage creditors and stockholders of the company owning, or which last owned, such property and franchises at the time of any such sale, and for the representation of such interests of creditors and stockholders in the bonds or stock of the new corporation to be formed, as provided for in said section, the said new corporation shall be authorized and shall have the power to issue its bonds and stock in conformity with the provisions of such plan or agreement; and the said new corporation may, at any time within six months after its organization, compromise, settle or assume the payment of any debt, claim or liability of the former company, upon such terms as may be lawfully approved by a majority of the agents or trustees intrusted with the carrying out of the plan or agreement of reorganization aforesaid; and for the purposes of such plans and of such settlements, the said new corporation may and shall be authorized to establish preferences in respect to the payment of dividends in favor of any portion of its said capital stock, and to divide its said stock into classes; provided, nevertheless, that nothing herein contained shall be held to authorize the issue of capital stock by the said new company to any aggregate amount exceeding the maximum amount of such stock mentioned in the certificate of incorporation.

Sale of property.

1. And it shall be lawful for the Supreme Court to direct a sale of the whole of the property, rights and franchises covered by the mortgage or mortgages, or deeds of trust foreclosed at any one time and place to be named in the judgment or order, either in the case of the non-payment of interest only, or of both the principal and interest due and unpaid and secured by any mortgage or mortgages or deeds aforesaid.

No interference with receiver by sale or formation of new company.

2. Neither the said sale nor the formation of such corporation shall interfere with the authority or possession of any receiver of the property and franchises

aforesaid, but he shall remain liable to be removed or discharged at such time as the court may deem proper

Suits against receiver.

3. No suit or proceeding shall be commenced against said receiver (unless founded on willful misconduct or fraud in his trust), except such as shall be commenced before the expiration of sixty days from the time of the discharge of such receiver; but it is further provided, that after the expiration of said sixty days, the corporation that shall own or operate said railroad shall be liable in any action that may be commenced against such company, and founded on any act or omission of such receiver (for which he may not as aforesaid be sued), and to the same extent as said receiver, but for this act, would be or remain liable, or to the same extent that such corporation would be, had it done or omitted the acts complained of against such receiver. (*Thus amended, Laws of 1876, chap. 446.*)

Stockholder of company has the right to assent to plans of readjustment.

§ 3. Every stockholder in any company, the franchises and property whereof shall have been sold as aforesaid, shall have the right to assent to the plan of readjustment and reorganization of interests pursuant to which such franchises and property shall have been purchased as aforesaid, at any time within six months after the organization of said new company, and by complying with the terms and conditions of such plan become entitled to his *pro rata* benefits therein according to its terms.

Railroad commissioners of any city, etc., may assent to plan of reorganization; issue of stock in exchange for stock of former company; may assign, etc., stock held by them.

§ 4. Full power is hereby given to the railroad commissioners, corporate authorities or proper officials of any city, town or village, who may hold stock in any corporation, the property and franchises whereof shall be liable to be sold, as mentioned in the first section of this act, to assent to any plan or agreement of reorganization which provides for the formation of a new company, in conformity with this act, and the issue of stock therein to the proper authorities or officials of said cities, towns or villages, in exchange for the stock of the old or former company by them respectively held at par, subject to the foregoing provisions of this act. And such railroad commissioners, corporate authorities or other proper officials, may assign, transfer or surrender the stock so held by them in the manner required by any such plan, and accept in lieu thereof the stock issued by said new corporation in conformity therewith.

CHAP. 505, LAWS OF 1879.

AN ACT to facilitate the foreclosure of mortgages made by consolidated railroad companies of railroads lying partly within and partly without this State.

Foreclosure of mortgages made by consolidated railroads lying only partly in the State.

SECTION 1. Whenever a railroad corporation, whose line of road lies partly in this State and partly in another State or States, which corporation shall have been created by the consolidation of a railroad corporation of this State with a railroad corporation or corporations of another State or States, shall have executed a mortgage upon its entire line of railroad, and a sale of the entire line of road under such mortgage shall have been or may hereafter be ordered, adjudged and decreed by a court of competent jurisdiction of the State or States in which the greater part of such line of railroad may be situated, upon the confirmation of such judgment or decree, and of the sale made thereunder, by the Supreme Court of this State in the judicial district in which some part of such line of road is situated, such sale shall operate to pass title to the purchaser of that part of the line of railroad lying in this State, together with its appurtenances and franchises,

with the same force and effect as if the judgment or decree under which such sale is had had been made by a court of competent jurisdiction of this State. Such judgment or decree and sale may be so confirmed in any action now pending, or that may hereafter be brought in the said Supreme Court, for the foreclosure of such mortgage or in aid of an action for that purpose pending in such other State, if it shall appear that such confirmation is for the interest of the public and of the parties, due and lawful provision being made for and in respect of any liens upon that part of the line of road or other property sold situate in this State, and for such costs, expenses and charges as may appear to be just and lawful. If a receiver of the entire line of such railroad shall have been, or may hereafter be, appointed by such court of competent jurisdiction of the State in which the greater part of the line of railroad is situated, such receiver may perform, within this State, the duties of his office not inconsistent with the laws of this State, and may sue and be sued in the courts of this State.

Powers of corporations of other States subject to certain duties and liabilities; proviso.

§ 2 A corporation created under the laws of the State in which the greater part of the line of such railroad may be situated, for the purpose of taking title to and operating the entire line of railroad so sold, as provided in the preceding section, with its franchises and appurtenances, the judgment, decree and sale having been duly confirmed and approved, as therein provided, may hold, possess and operate that part of the line of such railroad lying in this State, and shall have all the rights and franchises theretofore possessed by the corporation executing the mortgage under which such judgment or decree and sale was made, and such as now are or may hereafter be conferred upon railroad corporations organized under the laws of this State, and shall be subject to the duties and liabilities to which such corporation was by the laws of this State subject, and to such further or other duties and liabilities as are now or may hereafter be imposed by law upon railroad corporations of this State; provided that an exemplified copy of the charter, certificate of incorporation or articles of association under and by virtue of which such corporation is created, and of the judgment or decree under which said entire line of railroad was sold, and a certified copy of the order or judgment or decree of confirmation and approval required by the preceding section, shall be filed in the office of the Secretary of State for this State.

CHAP. 5, LAWS OF 1880.

AN ACT to authorize the president, treasurer and secretary of any railroad company to issue certificates of stock in certain cases, after a foreclosure and sale of the property and franchises of the corporation.

When president, etc., to issue certificates of stock.

SECTION 1. The president, treasurer and secretary of any railroad company organized under the laws of this State, or either of them, whose property and franchises have been sold under a foreclosure of any mortgage given to secure the payment of any bond or bonds issued by such company, are hereby authorized and required after such foreclosure and sale upon demand of any individual, or any duly authorized officers of any corporation, town, county or city, entitled thereto, to issue certificates of stock in said railroad company, provided, when any such individual or the proper officers of any corporation, county, town, or city duly authorized so to do have subscribed to the stock of such railroad company, and paid the amount of such subscription to the officers of such railroad company, either in money or bonds before the date of such foreclosure and sale, and a certificate of stock through the neglect of such railroad company or of any individual or the officers of any town, county, city or corporation has not been issued and delivered to said subscriber or the officers of any corporation, town, county or city for the amount of money or both so subscribed and paid.

Effect of certificate.

§ 2. All certificates of stock issued under the authority of the first section of this act shall have all the force and effect, and shall give the holder all the rights which would pertain thereto as if said stock had been issued at the date and payment of the subscription thereto.

CHAP. 155, LAWS OF 1880.

AN ACT to facilitate the carrying out of plans and agreements for the reorganization of railroads.

When stock insufficient, how company may increase same; State Engineer and Surveyor to approve.

SECTION 1. Whenever the maximum amount of capital stock mentioned in the certificate of incorporation of any railroad or railway company on file in the office of the Secretary of State shall be insufficient to carry out any plan or agreement of reorganization set forth in such certificate of incorporation, it shall be lawful for the directors, or a majority of the directors, of said company to file an additional certificate with the Secretary of State, which shall set forth the fact of such insufficiency, and the additional amount of capital stock required to carry out such plan or agreement of reorganization, and thereupon, with the approval of the State Engineer and Surveyor, said company shall be authorized to issue such capital stock as fully as if the same had been mentioned or set forth in the original certificate of incorporation. Said additional certificate shall be filed in the office of the Secretary of State within two months after the passage of this act.

CHAP. 502, LAWS OF 1853.

AN ACT to authorize stockholders of railroad and plankroad companies to make payments upon mortgages in process of foreclosure against such companies, and thereupon to become interested in said mortgages.

Default in payment of principal and interest of bonds.

SECTION 1. Whenever default shall be made by any railroad or plankroad company in the payment of principal or interest of any bonds of such company, which are secured by a mortgage of the property of such company, it shall be lawful for each and every stockholder of said company, at any time during the process of such foreclosure, to pay to the mortgagees named in such mortgage, for the use and benefit of the holder and holders of such bonds, such a proportion of the sum due and of the sum secured to be paid by the whole of the bonds secured by such mortgage as such stockholder's stock shall bear to the whole stock of said company; and on so paying, such stockholder shall, to the extent of such payment, become and be interested in said mortgage and protected thereby.

Foreclosure of mortgage.

§ 2. In case of the foreclosure of any mortgage given by any railroad or plankroad company to secure the payment of any bond of such company, any stockholder of such company shall, for the period of six months after the sale under such foreclosure, have the right on paying to the purchaser or purchasers at or under such sale, or to the mortgagees named in such mortgage, for the use and benefit of said purchaser or purchasers, a sum equal to such proportion of the price paid on such sale, and the costs and expenses thereof, as such stockholder's stock in said company shall bear to the whole capital stock of said company; and on so paying, such stockholder shall be entitled to have the same relative amount of stock or interest in said railroad or plankroad company and its road, franchises and other property.

CHAP. 917, LAWS OF 1869.

AN ACT authorizing the consolidation of certain railroad companies.

Consolidation of railroad companies owning continuous lines.

SECTION 1. It shall and may be lawful for any railroad company or corporation organized under the laws of this State, or of this State and any other State, and operating a railroad or bridge, either wholly within, or partly within and partly without this State, to merge and consolidate its capital stock, franchises and property with the capital stock, franchises and property of any other railroad company or companies organized under the laws of this State or under the laws of this State and any other State, or under the laws of any other State or States whenever the railroads or branches, or any part of the railroad or branches of the companies or corporations so to be consolidated shall or may form a continuous or connected line of railroad with each other, or by means of any intervening railroad bridge or ferry. (*Thus amended, Laws of 1881, chap. 685.*)

Conditions.

§ 2. Said consolidation shall be made under the conditions, provisions and restrictions, and with the powers hereinafter in this act mentioned and contained, that is to say :

Directors may enter into joint agreement ; amount of capital stock.

1. The directors of the companies proposing to consolidate may enter into a joint agreement, under the corporate seal of each company, for the consolidation of said companies and railroads, and prescribing the terms and conditions thereof, the mode of carrying the same into effect, the name of the new corporation, the number and names of the directors and other officers thereof, and who shall be the first directors and officers and their places of residence, the number of shares of the capital stock, the amount or par value of each share, and the manner of converting the capital stock of each of said companies into that of the new corporation, and how and when directors and officers shall be chosen, with such other details as they shall deem necessary to perfect such new organization, and the consolidation of said companies or railroads. But in no case shall the capital stock of the company formed by such consolidation exceed the sum of the capital stock of the companies so consolidated, at the par value thereof. Nor shall any bonds or other evidences of debt be issued as a consideration for, or in connection with, such consolidation.

Agreement to be submitted to stockholders ; vote to be by ballot ; two-thirds vote required ; certified copy evidence.

2. Said agreement shall be submitted to the stockholders of each of the said companies or corporations at a meeting thereof called separately for the purpose of taking the same into consideration ; due notice of the time and place of holding said meeting, and the object thereof, shall be given by each company to its stockholders by written or printed notices addressed to each of the persons in whose names the capital stock of such company stands on the books thereof, and delivered to such persons respectively, or send to them by mail when their post-office address is known to the company, at least thirty days before the time of holding such meeting, and also by a general notice published daily for at least four weeks in some newspaper printed in the city, town or county where such company has its principal office or place of business ; and at the said meeting of stockholders the agreement of the said directors shall be considered, and a vote by ballot taken for the adoption or rejection of the same, each share entitling the holder thereof to one vote, and said ballot shall be cast in person or by proxy, and if two-thirds of all the votes of all the stockholders shall be for the adoption of said agreement, then that fact shall be certified thereon by the secretaries of the respective companies, under the seal thereof, and the agreement so adopted, or a certified copy thereof, shall be filed in the office of the Secretary of State, and shall from thence be deemed and taken to be the agreement and act of consolidation of the said com-

panies; and a copy of the said agreement and act of consolidation duly certified by the Secretary of State, under his official seal, shall be evidence in all courts and places of the existence of said new corporation, and that the foregoing provisions of this act have been fully observed and complied with. (*Thus amended, Laws of 1880, chap. 94.*)

Corporations to be taken as one, on filing of agreement of consolidation; rates of fare upon the New York Central railroad; act not to apply to street railroads.

§ 3. Upon the making and perfecting such agreement and act of consolidation as hereinbefore provided, and filing the same or a copy thereof in the office of the Secretary of State as aforesaid, the said corporations, parties thereto, shall be deemed and taken to be one corporation by the name provided in said agreement and act, but such act of consolidation shall not release such new corporation from any of the restrictions, disabilities or duties of the several corporations so consolidated. But nothing in this act contained shall allow any rate of fare for way passengers greater than two cents per mile, to be charged or taken over the track or tracks of that railroad, now known as the New York Central Railroad Company, and the rate of fare for way passengers over the track or tracks now operated by the said New York Central Railroad Company shall continue to be two cents per mile and no more, wherever it is now restricted to that rate of fare. But nothing herein contained shall apply to street railroads.

New corporation succeeds to rights, property, claims, franchises, etc., of roads consolidated.

§ 4. Upon the consummation of said act of consolidation as aforesaid, all and singular the rights, privileges, exemptions and franchises of each of said corporations, parties to the same, and all the property, real, personal and mixed, and all the debts due on whatever account to either of said corporations, as well as all stock subscriptions and other things in action belonging to either of said corporations, shall be taken and deemed to be transferred to and vested in such new corporation, without further act or deed; and all claims, demands, property, rights of way and every other interest, shall be as effectually the property of the new corporation as they were of the former corporations parties to the said agreement and act, and the title to all real estate, taken by deed or otherwise, under the laws of this State, vested in either of such corporations, parties to said agreement and act, shall not be deemed to revert or be in any way impaired by reason of this act, or any thing done by virtue thereof, but shall be vested in the new corporation by virtue of such act of consolidation.

Rights of creditors, and liens not to be impaired; proviso as to existing suits, actions, etc.; suits, how brought against new corporations.

§ 5. The rights of all creditors of, and all liens upon, the property of either of said corporations, parties to said agreement and act, shall be preserved unimpaired, and the respective corporations shall be deemed to continue in existence to preserve the same, and all debts and liabilities incurred by either of said corporations, except mortgages, shall thenceforth attach to such new corporation, and be enforced against it and its property to the same extent as if said debts or liabilities had been incurred or contracted by it. No suit, action or other proceeding now pending before any court or tribunal, in which either of said railroad companies is a party, shall be deemed to have abated or been discontinued by the agreement and act of consolidation as aforesaid, but the same may be conducted in the name of the existing corporations to final judgment, or such new corporation may be, by order of the court, on motion, substituted as a party. Suits may be brought and maintained against such new corporation in the courts of this State, for all causes of action, in the same manner as against other railroad corporations therein.

Assessment of real and personal property of new corporation in this State.

§ 6. The real estate of such new corporation, situate within this State, shall be assessed and taxed in the several towns and cities where the same shall be situated

in like manner as the real estate of other railroad corporations is, or may be taxed and assessed, and such proportion of the capital stock and personal property of such new corporation shall in like manner be assessed and taxed in this State, as the number of miles of its railroad situate in this State bears to the number of miles of its railroad situate in the other State or States.

Proviso as to rate of passenger fare; act not to apply to street railroads; contract of Buffalo and State Line railroad not to be impaired.

§ 7. Nothing in this act contained shall be so construed as to allow such consolidated company to charge a higher rate of fare per passenger per mile upon any part or portion of such consolidated line than is now allowed by law to be charged by each existing company respectively, nor shall this act apply to street railroads; and nothing in this act contained shall be so construed as to affect or impair in any way the validity of any contract now existing between the Buffalo and State Line Railroad Company and the New York and Erie Railroad Company.

General Railroad Act; how far to apply.

§ 8. All the provisions of the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, and of the several acts amendatory thereof or in addition thereto, shall be applicable to the new corporation so to be formed as aforesaid, so far as the same are now applicable to the railroad companies of this State which may be consolidated with any other company or companies by virtue of this act.

Parallel and competing lines not authorized to consolidate.

§ 9. No companies or corporations of this State whose railroads run on parallel or competing lines shall be authorized by this act to merge or consolidate.

CHAP. 256, LAWS OF 1875.

AN ACT relating to the consolidation of certain railroad companies.

Consolidation with Pennsylvania companies.

SECTION 1. Any railroad company organized under the laws of this State may merge and consolidate its capital stock, franchises and property with the capital stock, franchises and property of any railroad company or companies organized under the laws of the State of Pennsylvania, whenever the two or more railroads of the companies or corporations so to be consolidated shall or may form a continuous line of railroad.

Consolidation, how effected.

§ 2. Such consolidation shall be effected in the manner provided for by an act entitled "An act to authorize the consolidation of certain railroad companies," passed May 20, 1869, and also subject to the laws of the State of Pennsylvania.

Stock of municipal corporation, how represented.

§ 3. At any meeting of the stockholders of any such company or corporation to consider any agreement or proposition to consolidate, the commissioners or other officer of any municipal corporation holding or having charge of any of the capital stock of such railroad company or corporation shall represent such municipal corporation, and may act and vote in person or by proxy on all matters relating to such consolidation in the same manner as individual stockholders.

CHAP. 685, LAWS OF 1881.

AN ACT to amend chapter 917 of the Laws of 1869, entitled "An act authorizing the consolidation of certain railroad companies."

When lawful for railroad companies to merge and consolidate.

SECTION 1. Section one of chapter 917 of the Laws of 1869, entitled "An act

authorizing the consolidation of certain railroad companies," is hereby amended so as to read as follows :

§ 1. It shall and may be lawful for any railroad company or corporation organized under the laws of this State, or of this State and any other State, and operating a railroad or bridge, either wholly within or partly within and partly without this State, to merge and consolidate its capital stock, franchises and property with the capital stock, franchises and property of any other railroad company or companies organized under the laws of this State or under the laws of this State and any other State, or under the laws of any other State or States whenever the railroads or branches, or any part of the railroad or branches of the companies or corporations so to be consolidated shall or may form a continuous or connected line of railroad with each other, or by means of any intervening railroad bridge or ferry.

(Chapter 415, Laws of 1880, authorizing extension of road so as to cross Hudson river over any bridge outside of New York and Kings, is omitted.)

CHAP. 606, LAWS OF 1875.

AN ACT further to provide for the construction and operation of a steam railway or railways in counties of the State.

Application for railway commissioners ; appointment of ; railways in cities.

SECTION 1. Whenever it shall appear, by the application of fifty reputable householders and tax payers of any county in this State, verified upon oath before a justice of the Supreme Court, that there is need in such county of a steam railway or railways for the transportation of passengers, mails or freight, the board of supervisors of said county may, within thirty days after presentation to them of such application, duly verified as aforesaid, appoint five commissioners, who shall be residents of the said county, and who shall have full power and authority to do and provide all that they are hereinafter directed to do and provide, and a certificate of whose appointment, signed by the chairman and clerk of such board, shall be filed in the office of the Secretary of State, and a duplicate thereof in the office of the clerk of such county. But whenever any such proposed railway shall be wholly within the limits of any city in the State, then such application shall be made only to the mayor of said city, and such mayor shall appoint such commissioners as aforesaid.

Commissioners to take oath and give bond.

§ 2 Within ten days after their appointment, each of said commissioners shall take and subscribe an oath faithfully to perform the duties of his office, the said oath to be filed in the office of the Secretary of State, and a duplicate thereof in the office of the clerk of such county, and shall give a bond to the people of the State of New York in the penal sum of \$25,000, conditioned for the faithful performance of the duties required by this act, which bond shall have two or more sureties, to be approved by a justice of the department of the Supreme Court including such county, and shall be filed in said clerk's office before said commissioner shall assume or perform any of the duties of his office.

First meeting of commissioners.

§ 3. Within fifteen days after their appointment, the said commissioners shall meet at some convenient place in such county, and organize themselves as a board with appropriate officers.

Commissioners to determine upon the necessity of railroads ; exception ; proviso.

§ 4. Said commissioners shall, within thirty days after such organization, determine upon the necessity of such steam railway or railways, and if they find such railway or railways to be necessary in such county, they shall, within sixty days after such organization, fix and determine the route or routes for such steam railway or railways, and the said commissioners shall have the exclusive power to

locate the route or routes of such railway or railways over, under, through or across the streets, avenues, places or lands in such county, except Broadway and Fifth avenue below Fifty-ninth street, Fourth avenue and Forty-second street, in the city of New York, and except over, under, through or across those portions of Grand, Classon and Franklin avenues and Downing street, in the city of Brooklyn, lying between the southerly line of Lexington avenue and the northerly line of Atlantic avenue, and over, under, through or across that portion of Classon avenue, in said city, lying between the northerly line of Lexington avenue and the southerly line of Park avenue, and over, under, through or across that portion of Washington avenue in said city lying between Park and Atlantic avenues, and except over, under, through or across De Bevoise place, Irving place and Leffert's place in said city of Brooklyn; and except such portions of streets and avenues as are already legally authorized for or occupied by an elevated or underground railway, and except such as are contained in public parks or occupied by buildings belonging to such county, or to this State, or to the United States, and except that portion of the city of Buffalo lying between Michigan and Main streets; and to provide for the connection or junction with any other railway or bridge, provided that the consent of the owners of one-half in value of the property bounded on, and the consent also of the local authorities having control of that portion of a street or highway upon which it is proposed to construct or operate such railway or railways be first obtained, or in case the consent of such property owners cannot be obtained, that the determination of three commissioners appointed by the General Term of the Supreme Court in the district of the proposed construction, given after a due hearing of all parties interested, and confirmed by the court, that such railway or railways ought to be constructed or operated, be taken in lieu of the consent of such property owners. But nothing herein contained shall prevent the construction of an elevated railway across such excepted streets, places and avenues in the city of Brooklyn at their intersection only with other streets, places and avenues. (*Thus amended, Laws of 1881, chap. 485.*)

Plans of construction.

§ 5. The said commissioners having, by such public notice as they may deem most proper and effective, under such conditions and with such inducements as to them may seem most expedient, invited the submission of plans for the construction and operation of such railway or railways, the said commissioners shall meet at a place and upon a day in such public notice named, not more than ninety days after their organization and decide upon the plan or plans for the construction of such railway or railways with the necessary supports, turnouts, switches, sidings, connections, landing-places, stations, buildings, platforms, stairways, elevators, telegraph and signal devices, or other requisite appliances upon the route or routes, and in the locations determined by them.

Commissioners to determine when railway to be built; rates of fare; appraisal of damages; before corporation enters upon street certain moneys to be deposited; additional deposit required; proviso.

§ 6. The said commissioners shall, within the like period of ninety days after their organization, fix and determine the time within which such railway or railways, or portions of the same, shall be constructed and ready for operation, together with the maximum rates to be paid for transportation and conveyance over such railway or railways, and the hours during which special cars or trains shall be run at reduced rates of fares. The said commissioners shall also, within the like period of ninety days after their organization, fix and determine the amount of the capital stock of the company to be formed for the purpose of constructing, maintaining and operating such railway or railways for public use in the conveyance of persons and property, the number of shares into which such capital stock shall be divided, and the percentage thereof to be paid in cash on subscribing for such shares. *The said commissioners shall also, within one hundred and ten days after their organization, ascertain and determine the aggregate pecuniary damage arising from the diminution in value of the property bounded on that portion of such street or streets, highway or highways, upon which it is proposed

* The following part of section 6 is not applicable to the counties of New York and Westchester. § 5, chap. 393, Laws of 1882.

to construct and operate such railway or railways, to be caused by the construction, maintenance and operation thereof. For the purpose of ascertaining such aggregate pecuniary damage the said commissioners shall view the several parcels of real estate bounded as aforesaid, and shall appraise separately the pecuniary damage arising from the diminution in value of each parcel thereof to be caused as aforesaid, and for the purposes of such appraisal they "shall give notice of the time and place when and where they will meet to hear the owners, or persons interested in the said several parcels of real estate bounded as aforesaid, which notice shall be published for at least ten days consecutively in at least two newspapers published in the county where such railway is to be constructed, and may in their discretion take testimony upon the probable diminution in value of any or all such parcels to be caused as aforesaid, and the aggregate sum of the amounts so appraised and determined by said commissioners shall be the aggregate pecuniary damage required to be ascertained and determined by said commissioners as above provided. And no corporation which shall hereafter be organized under this act shall enter upon any street, highway or lane of any city or county of this State, or become vested, either directly or indirectly, whether by implication or otherwise, with any right, privilege or franchise in any street, highway or lane therein, until it shall first have deposited with some trust company, to be designated by the mayor of the city within which it is proposed to construct the railway, or by the board of supervisors, when the road does not lie wholly within the city, a sum of money equal to the amount so ascertained and determined as aforesaid by said commissioners to be the aggregate pecuniary damage to the property, bounded as aforesaid, or shall have secured the payment of such amount by depositing with the said trust company negotiable securities, equivalent at their par and actual value to the aggregate amount aforesaid, and approved either by the county treasurer, or in case the said commissioners shall have been appointed by the mayor of a city, then by the said mayor. And the said corporation shall also at the same time deposit with the said trust company, or with the county treasurer, the sum of \$5,000 in cash, for the payment of the expense of apportioning and distributing the aforesaid fund; and unless such moneys or securities as aforesaid shall be deposited by such corporation within one year after it shall have obtained the consent of the local authorities, and of the property owners, or the confirmation by the general term of the Supreme Court of the determination of three commissioners, appointed by said court, as required by the fourth section of this act, and in the case of a company heretofore organized within one year after it shall have obtained the confirmation by the general term of the Supreme Court of the report of three commissioners appointed by said court, in lieu of the consent of property owners or within one year after the commissioners appointed to ascertain and determine the aggregate pecuniary damages as provided in this act shall have made their report, then and in such case the said corporation shall be deemed not to have accepted the franchises duly granted.

Provided, however, that in all cases where the said commissioners shall fix and determine different periods of time within which different sections of said railway shall be constructed and ready for operation, they shall ascertain, determine and report separately the aggregate pecuniary damage to property bounded upon that portion of said street or streets upon which each of such sections is located; and upon the deposit by said corporation as above provided of moneys or securities equivalent to the aggregate pecuniary damage to be sustained by any one of such sections of said railway, said corporation shall immediately be vested with the right and privilege to construct its railway through such section. (*So amended, Laws of 1882, chap. 393.*)

Articles of association, proviso as to forfeiture.

§ 7. The said commissioners shall prepare appropriate articles of association for the company in the last section mentioned, in which said articles of association shall be set forth and embodied, as component parts thereof, the several conditions, requirements and particulars by said commissioners determined pursuant to sections 4, 5 and 6 of this act, and which further shall provide for the release and forfeiture to the supervisors of the county of all rights and franchises acquired by such corporation in case such railway or railways shall not be completed within the time and upon the conditions therein provided; and the

said commissioners shall thereupon, and within one hundred and twenty days after their organization as aforesaid, cause a suitable book of subscription to the capital stock of such company to be opened, pursuant to due public notice, at a banking office in such county.

*Provided, however, that a failure by any corporation heretofore or hereafter organized under this act to complete its railway within the time limited in and by its articles of association shall work a forfeiture of the franchises of such corporation only with respect to that portion of its route which such corporation shall have failed to complete, and shall not affect the rights and franchises of such corporation to construct and operate such part of its railway which it shall have completed within the term prescribed by its articles of association, or as to which the time for completion shall not have expired, any thing contained in the articles of association of such corporation to the contrary hereof in any wise notwithstanding. (*Thus amended by Laws of 1882, chap. 393.*)

Organization.

§ 8. Whenever the whole capital stock of such company, or an amount of such capital stock proportioned to the part of such railway or railways directed by said commissioners to be first constructed, shall have been subscribed by not less than twenty-five persons, and the fixed percentage of such subscriptions shall have been paid in cash, the said commissioners shall, by written or printed notice of ten days, served personally, or by mail, call a meeting of such subscribers for organization. At such meeting, or at any subsequent one to which the same may be adjourned, a majority in number and amount of said subscribers may elect persons, of a number to be theretofore determined by said commissioners, who shall be directors for one year of the corporation formed for the purpose of constructing and operating said railway or railways.

Commissioners to deliver certificate; affidavit of directors; filing of certificate; corporation, when perfected.

§ 9. Within ten days after the election of said directors, said commissioners shall deliver to said directors a certificate in duplicate, verified by the oath of three commissioners before a justice of the Supreme Court, setting forth the said articles of association and the organization of the company for the purposes in this act mentioned and provided for; and within five days after the reception by them of such certificate, three of the directors so elected shall make affidavit, in duplicate, that the full amount of stock has been subscribed in good faith, and the prescribed percentage paid in cash thereon, and that it is intended, in good faith, to construct, maintain and operate the railway or railways in such articles of association mentioned, and the said directors shall file said certificates and articles in the office of the Secretary of State, and a duplicate of the same in the office of the clerk of the county wherein such railway or railways shall be located, and thereupon the persons who have so subscribed such articles of association, and all persons who shall become stockholders in such company, shall be a corporation by the name specified in such articles of association, and shall possess the powers and privileges granted to corporations, and be subject to the duties and restrictions of corporations. A copy of such certificate and affidavit, certified to be a copy by the Secretary of this State, or his deputy, shall be presumptive evidence of the incorporation of such company and of the facts therein stated.

Directors' books, when to be exhibited.

§ 10. Said directors shall be chosen annually, by a majority of the votes of the stockholders voting at such election, in such manner as may be prescribed in the by-laws of the corporation, and they may and shall continue to be directors until others are elected in their places: In the election of directors, each stockholder shall be entitled to one vote for each share of stock held by him. Vacancies in the board of directors shall be filled in such manner as shall be prescribed by the by-laws of the corporation. Every corporation formed under this act shall be subject to the regulations concerning the election of directors of moneyed corporations, contained in article second of the second title of the eighteenth chapter of the first part of the Revised Statutes. The inspectors of the first election of

* The following proviso is not applicable to the counties of New York and Westchester. § 5, chap. 393, Laws of 1882.

directors shall be appointed by the commissioners. No person shall be a director unless he shall be a stockholder owning stock absolutely in his own right, and qualified to vote for directors at the election at which he shall be chosen. At every election of directors the books and papers of such company shall be exhibited to the meeting, provided a majority of the stockholders present shall require it. The directors shall appoint one of their number president; they may also appoint a treasurer and secretary, and such other officers and agents as shall be prescribed by the by-laws.

Payment of subscriptions to stock.

§ 11. The directors may require the subscribers to the capital stock of the company to pay the amount by them respectively subscribed, in such manner and in such installments as they may deem proper. If any stockholder shall neglect to pay any installment as required by a resolution of the board of directors, the said board shall be authorized to declare his stock, and all previous payments thereon, forfeited for the use of the company; but they shall not declare it so forfeited until they shall have caused a notice in writing to be served on him personally, or by depositing the same in the post-office, postage prepaid, properly directed to him at the post-office nearest his usual place of residence, stating that he is required to make such payment at the time and place specified in said notice; and that if he fails to make the same, his stock, and all previous payments thereon, will be forfeited for the use of the company; which notice shall be served as aforesaid, at least sixty days previous to the day on which such payment is required to be made.

Liability of stockholder, laborers and servants, other than contractors; when suit to be brought.

§ 12. Each stockholder of any company formed under this act shall be individually liable to the creditors of such company, to an amount equal to the amount unpaid on the stock held by him, for all the debts and liabilities of such company, until the whole amount of the capital stock so held by him shall have been paid to the company, and all the stockholders of any such company shall be jointly and severally liable for the debts due or owing to any of its laborers and servants, other than contractors, for personal services for thirty days' service performed for such company, but shall not be liable to an action therefor before an execution shall be returned unsatisfied in whole or in part against the corporation, and the amount due on such executions shall be the amount recoverable, with costs against such stockholders; before such laborer or servant shall charge such stockholder for such thirty days' service, he shall give him notice in writing within twenty days after the performance of such service, that he intends so to hold him liable, and shall commence such action therefor within thirty days after the return of such execution unsatisfied, as above mentioned; and every such stockholder against whom any such recovery by such laborer or servant shall have* been had, shall have a right to recover the same of the other stockholders in said corporation, in ratable proportion to the amount of the stock they shall respectively hold with himself.

Stock deemed personal estate; how and when transferable.

§ 13. The stock of every company formed under this act shall be deemed personal estate, and shall be transferable in the manner prescribed by the by-laws of the company, but no share shall be transferable until all previous calls thereon shall have been fully paid in.

Increase of capital stock.

§ 14. In case the capital stock of any company formed under this act is found to be insufficient for constructing and operating its road, such company may, with the concurrence of two-thirds in amount of all its stockholders, increase its capital stock from time to time to any amount required for the purposes aforesaid.

* So in original.

Such increase must be sanctioned by a vote in person, or by proxy, of two-thirds in amount of all the stockholders of the company, at a meeting of such stockholders, called by the directors of the company for that purpose, by a notice in writing to each stockholder, to be served on him personally, or by depositing the same, properly folded and directed to him at the post-office nearest his usual place of residence, in the post-office, postage prepaid, at least twenty days prior to such meeting. Such notice must state the time and place of the meeting, and its object, and the amount to which it is proposed to increase the capital stock. The proceedings of such meeting must be entered on the minutes of the proceedings of the company, and thereupon the capital stock of the company may be increased to the amount sanctioned by a vote of two-thirds in amount of all the stockholders of the company as aforesaid.

Stock held in trust.

§ 15. No person holding stock in any such company, as executor, administrator, guardian or trustee, and no person holding such stock as collateral security, shall be personally subject to any liability as stockholder of such company; but the person pledging such stock shall be considered as holding the same, and shall be liable as a stockholder accordingly; and the estates and funds in the hands of such executor, administrator, guardian or trustee shall be liable in like manner, and to the same extent, as the testator or intestate or the ward or person interested in such trust fund would have been if he had been living and competent to act, and held the same stock in his own name.

Liability to laborers.

§ 16. As often as any contractor for the construction of any part of a railroad, which is in progress of construction, shall be indebted to any laborer for thirty or any less number of days' labor performed in constructing said road, such laborer may give notice of such indebtedness to said company in the manner herein provided; and said company shall thereupon become liable to pay such laborer the amount so due him for such labor, and an action may be maintained against said company therefor. Such notice shall be given by said laborer to said company within twenty days after the performance of the number of days' labor for which the claim is made. Such notice shall be in writing, and shall state the amount and number of days' labor, and the time when the same was performed for which the claim is made, and the name of the contractor from whom due, and shall be signed by such laborer or his attorney; and shall be served on an engineer, agent or superintendent employed by such company having charge of the section of the road on which such labor was performed personally, or by leaving the same at the office or usual place of business of such engineer, agent or superintendent with some person of suitable age. But no action shall be maintained against any company under the provisions of this section, unless the same is commenced within thirty days after notice is given to the company by such laborer as above provided.

Real estate.

§ 17. Every such corporation shall have the right to acquire and hold such real estate, or interest therein, as may be necessary to enable them to construct, maintain and operate the said railway or railways, and such as may be necessary for stations, depots, engine-houses, car-houses and machine shops; and, in case any such corporation cannot agree with the owner or owners of any such real estate, or of any interest therein, it shall have the right to acquire title to the same in the manner and by the special proceedings prescribed in this act.

Title, how acquired; petition what to contain; how and when served.

§ 18. For the purpose of acquiring such title, the said company may present a petition praying for the appointment of commissioners of appraisal to the Supreme Court, at any general or special term thereof, held in the judicial district in which the real estate described in the petition is situated. Such petition shall be signed and verified according to the rules and practice of such court. It must contain a

description of the real estate which the company seeks to acquire ; and it must, in effect, state that the company is duly incorporated, and that it is the intention of the company, in good faith, to construct and finish a railroad from and to the places named for that purpose in its articles of association ; that the whole capital stock of the company has been, in good faith, subscribed as required by this act ; that the land described in the petition is required for the purpose of constructing or operating the proposed road ; and that the company has not been able to acquire title thereto, and the reason of such inability. The petition must also state the names and places of residence of the parties, so far as the same can, by reasonable diligence, be ascertained, who own or have, or claim to own or have, estates or interests in the said real estate ; and, if any such persons are infants, their ages, as near as may be, must be stated ; and if any of such persons are idiots or persons of unsound mind, or are unknown, that fact must be stated together with such other allegations and statements of liens or incumbrances on said real estate as the company may see fit to make. A copy of such petition, with a notice of the time and place the same will be presented to the Supreme Court, must be served on all persons whose interests are to be affected by the proceedings, at least ten days prior to the presentation of the same to the said court.

Commissioners to be appointed.

§ 19. On presenting such petition to the Supreme Court as aforesaid, with proof of service of a copy thereof, and notice as aforesaid, all persons whose estates or interests are to be affected by the proceedings may show cause against granting the prayer of the petition, and may disprove any of the facts alleged in it. The court shall hear the proofs and allegations of the parties, and if no sufficient cause is shown against granting the prayer of the petition, it shall make an order for the appointment of five disinterested and competent persons, who reside in the county where the premises to be appraised are situated, commissioners to ascertain and appraise the compensation to be made to the owners or persons interested in the real estate proposed to be taken in such county for the purposes of the company, and to fix the time and place for the first meeting of such commissioners.

Proceedings of commissioners.

§ 20. The commissioners shall take and subscribe the oath prescribed by the twelfth article of the Constitution. Any one of them may issue subpoenas, administer oaths to witnesses, and any three of them may adjourn the proceedings before them from time to time in their discretion. Whenever they meet, except by the appointment of the court, or pursuant to adjournment, they shall cause reasonable notice of such meetings to be given to the parties who are to be affected by their proceedings, or their attorney or agent. They shall view the premises described in the petition, and hear the proofs and allegations of the parties, and reduce the testimony, if any is taken by them, to writing ; and after the testimony is closed in each case, and without any unnecessary delay, and before proceeding to the examination of any other claim, a majority of them, all being present and acting, shall ascertain and determine the compensation which ought justly to be made by the company to the party or parties owning or interested in the real estate appraised by them ; and in determining the amount of such compensation, they shall not make an allowance or deduction on account of any real or supposed benefits which the party in interest may derive from the construction of the proposed railroad. They, or a majority of them, shall also determine and certify what sum ought to be paid to a general or special guardian or committee of an infant, idiot, or person of unsound mind, or to an attorney appointed by the court to attend to the interest of any unknown owner or party in interest not personally served with notice of the proceedings, and who has not appeared, for costs, expenses and counsel fees. They shall make a report to the Supreme Court, signed by them, or a majority of them, of the proceedings before them, with the minutes of the testimony taken by them, if any. Said commissioners shall be entitled to \$3 for their expenses and services for each day they are engaged in the performance of their duties, to be paid by the company.

Confirmation of report ; proceedings thereon.

§ 21. On such report being made by said commissioners, the company shall give notice to the parties, or their attorneys, to be affected by the proceedings, according to the rules and practice of said court, at a general or special term thereof, for the confirmation of such report ; and the court shall thereupon confirm such report, and shall make an order containing a recital of the substance of the proceedings in the matter of the appraisal, and a description of the real estate appraised for which compensation is to be made ; and shall also direct to whom the money is to be paid, or in what bank, and in what manner it shall be deposited by the company.

Order to be recorded ; company to have title on payment of award, etc. ; appeals.

§ 22. A certified copy of the order so to be made, as aforesaid, shall be recorded at full length in the clerk's office of the county in which the land described in it is situated ; and thereupon, and on the payment or deposit by the company of the sums to be paid as compensation for the land, and for costs, expenses, and counsel fees as aforesaid, and as directed by said order, with interest from the date thereof, the company shall be entitled to enter upon, take possession of and use the said land for the purpose of its incorporation, during the continuance of its corporate existence, by virtue of this or any other act ; and all persons who have been made parties to the proceedings shall be divested and barred of all right, estate, and interest in such real estate, during the corporate existence of the company as aforesaid. If the company shall neglect to have such order recorded, and to make the payment or deposit as herein provided, for the period of ten days after the date of such order, any party to such proceedings and interested therein may, at his election, cause a certified copy of the said order to be recorded as aforesaid, and thereupon the moneys therein directed to be paid, with interest thereon from the date of said order, shall be a debt against the company, and the same shall be a lien on such real estate, and may be enforced and collected by action at law or in equity in the Supreme Court, with costs. All real estate acquired by any company under and pursuant to the provisions of this act, for the purposes of its incorporation, shall be deemed to be acquired for public use. Within twenty days after the confirmation of the report of the commissioners, as provided for in the twenty-first section of this act, either party may appeal, by notice in writing to the other, to the Supreme Court, from the appraisal and report of the commissioners. Such appeal shall be heard by the Supreme Court, at any general or special term thereof, on such notice thereof being given according to the rules and practice of said court. On the hearing of such appeal, the court may direct a new appraisal, before the same or new commissioners, in its discretion ; the second report shall be final and conclusive on all the parties interested. If the amount of compensation to be made by the company is increased by the second report, the difference shall be a lien on the land appraised, and shall be paid by the company to the parties entitled to the same, or shall be deposited in the bank, as the court shall direct ; and if the amount is diminished, the difference shall be refunded to the company by the party to whom the same may have been paid ; and judgment therefor may be rendered by the court, on the filing of the second report, against the party liable to pay the same. Such appeal shall not affect the possession by such company of the land appraised ; and when the same is made by others than the company, it shall not be heard, except on a stipulation of the party appealing not to disturb such possession.

Proceedings where there are conflicting claimants.

§ 23. If there are adverse and conflicting claimants to the money or any part of it, to be paid as compensation for the real estate taken, the court may direct the money to be paid into said court by the company, and may determine who is entitled to the same, and direct to whom the same shall be paid ; and may, in its discretion, order a reference to ascertain the facts on which such determination and order are to be made. The court shall appoint some competent attorney to appear for, and protect the rights of any party in interest who is unknown, or whose residence is unknown, and who has not appeared in the proceedings by an

attorney or agent. The court shall also have power at any time to amend any defect or informality in any of the special proceedings authorized by this act, as may be necessary; or to cause new parties to be added, and to direct such further notices to be given to any party in interest, as it deems proper; and also to appoint others commissioners in place of any who shall die, or refuse, or neglect to serve, or be incapable of serving.

Where title is defective.

§ 24. If, at any time after an attempt to acquire title by appraisal of damages or otherwise, it shall be found that the title thereby attempted to be acquired is defective, the company may proceed anew to acquire or perfect such title, in the same manner as if no appraisal had been made; and at any stage of such new proceedings, the court may authorize the corporation, if in possession, to continue in possession, and if not in possession, to take possession, and use such real estate during the pendency and until the final conclusion of such new proceedings; and may stay all actions or proceedings against the company on account thereof, on such company paying into court a sufficient sum, or giving security, as the court may direct, to pay the compensation therefor when finally ascertained; and in every such case the party interested in such real estate may conduct the proceedings to a conclusion, if the company delays or omits to prosecute the same.

When title to real estate is vested in trustee.

§ 25. In case any title or interest in real estate required by any company formed under this act, for the purpose of its incorporation, shall be vested in any trustee not authorized to sell, release and convey the same, or in any infant, idiot, or person of unsound mind, the Supreme Court shall have power, by a summary proceeding on petition, to authorize and empower such trustee, or the general guardian or committee of such infant, idiot, or person of unsound mind, to sell and convey the same to such company, for the purposes of its incorporation, on such terms as may be just; and in case any such infant, idiot, or person of unsound mind, has no general guardian or committee, the said court may appoint a special guardian or committee for the purpose of making such sale, release or conveyance, and may require such security from such general or special guardian or committee as said court may deem proper. But before any conveyance or release authorized by this section shall be executed, the terms on which the same is to be executed, shall be reported to the court, on oath; and if the court is satisfied that such terms are just to the party interested in such real estate, the court shall confirm the report, and direct the proper conveyance or release to be executed, which shall have the same effect as if executed by an owner of said land having legal power to sell and convey the same.

Powers.

§ 26. Every corporation formed under this act shall have power:

1. To take and hold such voluntary grants of real estate and other property as shall be made to it, to aid in the construction, maintenance and accommodation of its railroad; but the real estate received by voluntary grant shall be held and used for the purposes of such grant only.

2. To purchase, hold and use all such real estate and other property as may be necessary for the construction and maintenance of its railroad, and the stations and other accommodations necessary to accomplish the objects of its incorporation; but nothing herein contained shall be held as repealing, or in any way affecting the act entitled "An act authorizing the construction of railroads upon Indian lands," passed May 12, 1886.

3. To cross, intersect, join and unite its railroad with any other railroad before constructed at any point on its route, and upon the grounds of such other railroad company, with the necessary turnouts, sidings and switches, and other conveniences in furtherance of the objects of its connections. And every company whose railroad is or shall be hereafter intersected by any new railroad, shall unite with the owners of such new railroad in forming such intersections and connections, and grant the facilities aforesaid; and if the two corporations cannot agree upon the

amount of compensation to be made therefor, or the points and manner of such crossings and connections, the same shall be ascertained and determined by commissioners to be appointed by the court, as is provided in this act in respect to acquiring title to real estate.

4. To take and convey persons and property on their railroad by the power or force of steam, or by any motor other than animal power, and to receive compensation therefor.

5. To enter upon and underneath the several streets, avenues, public places and lands designated by the said commissioners, and enter into and upon the soil of the same; to construct, maintain, operate and use, in accordance with the plan adopted by said commissioners, a railway or railways upon the route or routes and to the points decided upon, and to secure the necessary foundations and erect the columns, piers and other structures which may be required to secure safety and stability in the construction and maintenance of the railways constructed upon the plan adopted by the said commissioners and for operating the same; except that nothing in this act shall authorize the construction of a railway crossing the track of any steam railway now in actual operation at the grade thereof, or the erection of piers or supports for any elevated railway upon a railway track now actually in use in any street or avenue; and it shall be lawful to make such excavations and openings along the route through which such railway or railways shall be constructed as shall be necessary from time to time; in all cases the surface of said streets around such foundations, piers and columns shall be restored to the condition in which they were before such excavations were made, as near as may be, and shall avoid any interference with or change in the water-mains, or in the sewers or lamp-posts, except such changes as may be made with the concurrence of the proper department or authority; and in all cases the use of the streets, avenues, places and lands designated by the said commissioners, and the right of way through the same, for the purpose of a railway or railways, as herein authorized and provided, shall be considered, and is hereby declared, to be a public use, consistent with the uses for which the roads, streets, avenues and public places are publicly held; but no such corporation shall have the right to acquire the use or occupancy of public parks or squares in such county, or the use or occupancy of any of the streets or avenues, except such as may have been designated for the route or routes of such railway, and except such temporary privileges as the proper authorities may grant to such corporations to facilitate such construction.

6. From time to time to borrow such sums of money as may be necessary for completing and finishing or operating their railroad, and to issue and dispose of their bonds for any amount so borrowed, and to mortgage their corporate property and franchises to secure the payment of any debt contracted by the company for the purposes aforesaid; and the directors of the company may confer on any holder of any bond issued for money borrowed as aforesaid, the right to convert the principal due or owing thereon into stock of said company, at any time not exceeding ten years from the date of the bond, under such regulations as the directors may see fit to adopt.

Employees to wear badge; effect of not wearing badge.

§ 27. Every conductor, baggage-master, engineer, brakeman or other servant of any railroad corporation employed in a passenger train, or at stations for passengers, shall wear upon his hat or cap a badge, which shall indicate his office, and the initial letters of the style of the corporation by which he is employed. No conductor or collector, without such badge, shall be entitled to demand or receive from any passenger any fare or ticket, or to exercise any of the powers of his office; and no officer or servant, without such badge, shall have authority to meddle or interfere with any passenger, his baggage or property.

To convey mails.

§ 28. Any such corporation shall, when applied to by the Postmaster-General, convey the mails of the United States on their road or roads respectively; and in case such corporations shall not agree as to the rate of transportation therefor, and as to the time, rate of speed, manner and condition of carrying the same, it

shall be lawful for the Governor of this State to appoint three commissioners, who, or a majority of them, after fifteen days' notice in writing of the time and place of meeting to the corporation, shall determine and fix the prices, terms and conditions aforesaid; but such price shall not be less for carrying said mails in the regular passenger trains than the amount which such corporation would receive as freight on a like weight of merchandise transported in their merchandise trains, and a fair compensation for the post-office car. And in case the Postmaster-General shall require the mail to be carried at other hours, or at a higher speed than the passenger trains are run, the corporation shall furnish an extra train for the mail, and be allowed an extra compensation for the expenses and wear and tear thereof, and for the service to be fixed as aforesaid.

Ejection of passengers.

§ 29. If any passenger shall refuse to pay his fare, it shall be lawful for the conductor of the train and the servants of the corporation to put him and his baggage out of the cars, using no unnecessary force, at any usual stopping-place, or near any dwelling-house, as the conductor shall elect, on stopping the train.

To run trains at regular times, and to furnish sufficient accommodation.

§ 30. Every such corporation shall start and run their cars for the transportation of passengers and property, at regular times, to be fixed by public notice; and shall furnish sufficient accommodations for the transportation of all such passengers and property, as shall, within a reasonable time previous thereto, be offered for transportation at the place of starting and the junctions of other railroads, and at usual stopping places established for receiving and discharging way passengers and freight for that train; and shall take, transport and discharge such passengers and property at, from and to such places, on the due payment of the freight or fare legally authorized therefor; and shall be liable to the party aggrieved, in an action for damages, for any neglect or refusal in the premises.

Intoxication of employees.

§ 31. If any person shall, while in charge of a locomotive engine running upon the railroad of any such corporation, or while acting as the conductor of a car or train of cars on any such railroad, be intoxicated, he shall be deemed guilty of a misdemeanor.

Willful injury to property.

§ 32. If any person or persons shall willfully do, or cause to be done, any acts or act whatever, whereby any building, construction or work of any railroad corporation, or any engine, machine or structure, or any matter or thing appertaining to the same, shall be stopped, obstructed, impaired, weakened, injured or destroyed, the person or persons so offending shall be guilty of a misdemeanor, and shall forfeit and pay to the said corporation treble the amount of damages sustained by means of such offense.

Penalties, how recovered.

§ 33. All penalties imposed by this act may be sued for in the name of the people of the State of New York; and if such penalty be for a sum not exceeding \$100, then such suit may be brought before a justice of the peace, and may be commenced by serving a summons on any director of such company.

Legislature may dissolve company.

§ 34. The Legislature may, at any time, annul or dissolve any incorporation formed under this act; but such dissolution shall not take away or impair any remedy given against any such corporation, its stockholders or officers for any liability which shall have been previously incurred.

Where route crosses horse railroad track.

§ 35. Whenever the route selected by the said commissioners for the construc-

tion of said railway shall intersect, cross or coincide with any horse railway track occupying the surface of said streets or avenues, the said railway corporation is hereby authorized to remove, for the purpose of constructing the said work, the tracks of said horse railways; but the same shall be done in such manner as to interfere as little as possible with their practical operation or working, and upon the construction of said railway, where such removals or changes have been made, the same shall be restored, as near as may be, to the condition in which they were previous to the construction of said railroad. All such removals and restorations shall be made at the proper cost and charges of the said corporation. Nothing contained in this act shall authorize any corporation formed thereunder to use the tracks of any horse railway.

Where route coincides with another route; elevated railways.

§ 86. Whenever the route or routes determined upon by said commissioners coincide with the route or routes covered by the charter of an existing corporation formed for the purpose provided for by this act, provided that said corporation has not forfeited its charter or failed to comply with the provisions thereof, requiring the construction of a road or roads within the time prescribed by its charter, such corporation shall have the like power to construct and operate such railway or railways, upon fulfillment of the requirements and conditions imposed by said commissioners as a corporation specially formed under this act; and the said commissioners may fix and determine the route or routes by which any elevated steam railway or railways now in actual operation may connect with other steam railways or the depots thereof, or with steam ferries; upon fulfillment by such elevated steam railway company, so far as it relates to such connection, of such of the requirements and conditions imposed by said commissioners under section 4 of this act, as are necessary to be fulfilled in such cases, under section 18 of article 3 of the Constitution of this State, and such connecting elevated railway shall in such case possess all the powers conferred by section 26 of this act; and when any connecting route or routes shall be so designated, such elevated railway company may construct such connection, with all the rights, and with like effect, as though the same had been a part of the original route of such railway.

Commissioners to transfer plans, etc., to corporation.

§ 87. Within one month after such corporation shall have been formed and organized in the manner hereinbefore provided, the said commissioners shall transfer and deliver to the said corporation all plans, specifications, drawings, maps, books and papers in their possession. And the said commissioners shall, within the like period of one month after the organization of such corporation, cause to be paid to the treasurer thereof all money collected under the provisions of this act, after deducting therefrom the necessary expenses incurred by said commissioners and the amounts due or to accrue to them for their salaries.

Pay of commissioners.

§ 88. Each of said commissioners shall be paid for his services at the rate of \$10 per day for each day of actual service as such commissioner, to be paid by such corporation; but if a sufficient amount of capital stock shall not be subscribed within one year after the appointment of such commissioners to authorize the formation of such corporation, the said commissioner shall receive no salary, and shall cause to be returned to the subscribers for said stock the amounts paid in by them, after deducting therefrom the necessary expenses incurred by said commissioners; provided, however, that the time, if any, unavoidably consumed by the pendency of legal proceedings shall not be deemed a part of any period or time limited in this act.

Commissioners; relating to.

§ 89. A majority of the said commissioners shall be deemed and considered sufficient for the transaction of any business, or for the exercise of any of the duties, powers or functions hereby conferred or enjoined upon them. Any of said com-

missioners may be removed for cause at any time by the power appointing him, but no commissioner shall be removed without due notice and an opportunity of being heard in defense; and no commissioner thus removed shall be again appointed to the office of commissioner. In case of the death, resignation or removal from office of any of the said commissioners, the vacancy shall be filled within thirty days from such death, resignation or removal by the power appointing him, and a certificate of such appointment shall be filed as aforesaid. And the terms of office of the said commissioners shall determine and expire with the performance of their functions as herein prescribed.

Limitations of act.

§ 40. This act shall not be construed to repeal or in any manner to affect chapter 140 of the Laws of 1850, entitled "An act to authorize the formation of railroad corporations, and to regulate the same," or the several acts amendatory thereof or supplementary thereto. None of the provisions of this act shall apply to any railroad company organized under any general or special law of this State, for the purpose of constructing or operating a steam railroad upon the surface of the ground, nor to the operation or management of any such railroad heretofore constructed.

Other limitations.

§ 41. It shall not be lawful for any company organized under the provisions of this act, or under any other act heretofore passed, to construct a steam railway upon St. Nicholas avenue, in the city of New York, or those streets or avenues in said city commonly known as boulevards, except to cross the same, under such regulations as shall be imposed by the commissioners provided for by this act, and every such company shall be bound by the restrictions and limitations, as to its route and as to its mode of construction, which shall be established by the commissioners appointed under the acts from which its powers were derived, as far as such restrictions and limitations are consistent with the provisions of this act. The provisions of this section shall not be deemed to apply to any existing horse street railway heretofore authorized to be constructed.

Proceedings for the apportionment of damages.

*§ 42. At any time not less than two years nor more than three years after the completion and operation of said railway or railways, any owner of, or party having or claimed to have any estate or interest in any of the property bounded upon that portion of any street or highway upon which such railway shall have been constructed, may petition the Supreme Court at any general term thereof, held in the judicial district in which such railway shall be located, for the appointment of commissioners to apportion among the persons entitled thereto, under the provisions of this act, the moneys deposited or secured for the payment of pecuniary damages under the sixth section thereof. Such petition shall be signed and verified according to the rules and practice of such court, and shall contain a description of the property of such petitioner, together with a statement in detail of damages which he may claim to have sustained. Upon the presentation of such petition, the court shall make an order for the service of the same, and of notice of the time and place of an application thereupon for the appointment of commissioners, by the publication of such petition and notice in not less than two newspapers published in the county in which the said railway is located, and not less than once a week for at least three months from the date of the first publication. (*Thus amended, Laws of 1882, chap. 393.*)

Ibid.

§ 43. At the time and place named in the said notice so published as above provided, and after hearing all parties appearing pursuant to such notice, the said court shall make an order for the appointment of three disinterested and competent persons, who shall be residents and freeholders in the county in which said railway is located, as commissioners to apportion among the persons entitled thereto, under the provisions of this act, the amount deposited as required by the sixth section hereof. (*Added by Laws of 1882, chap. 393.*)

* Sections 42 to 51 inclusive, are not applicable to the counties of New York and Westchester. § 5, chap. 393, Laws of 1882.

Ibid.

§ 44. The said commissioners shall take and subscribe the oath prescribed by the twelfth article of the Constitution. Any one of them may issue subpoenas and administer oaths to witnesses; any two of them may adjourn the proceedings before them from time to time in their discretion. Whenever they meet, except by the appointment of the court, or pursuant to adjournment, they shall cause notice of such meeting to be given to all parties who have appeared in the proceedings, in such manner as the court shall direct. They shall view the property bounded upon that portion of any street or highway upon which said railway is located, and hear the proofs and allegations of the persons owning, or having or claiming to have an interest therein, and of the railway company, and reduce the testimony, if any is taken by them, to writing; and after the testimony is closed, all being present and acting, shall ascertain and determine what amount of the money deposited or secured, as above provided, ought justly to be paid to each owner or person interested in said property, or any parcel thereof as compensation for any diminution in value thereof caused by the construction, maintenance and operation of said railway; and in determining such amounts respectively, they shall make allowances for any benefit which shall have accrued, or may thereafter accrue, to said property, or any parcel thereof, by reason of the construction and operation of said railway. The sum of all the amounts so awarded shall not exceed the amount deposited or secured by said railway company as above provided. The said commissioners shall make a report to the Supreme Court, signed by them, or a majority of them, of the proceedings before them, with the minutes of the testimony taken by them, if any. Said commissioners shall be entitled to \$5 per day for each day they are engaged in the performance of their duties. The fees of said commissioners, together with their reasonable expenses, approved by a justice of the Supreme Court, upon notice to the said railway company, shall be paid out of the moneys deposited with the county treasurer or trust company for such purpose as above provided in the sixth section hereof, and any balance of said moneys so deposited for such purpose shall thereupon be paid over to said railway company. No costs shall be allowed in the proceedings before said commissioners. (*Added by Laws of 1882, chap. 393.*)

Ibid.

§ 45. On such report being made by such commissioners, the petitioner, or any party who shall have appeared in the proceedings, may give notice to the other parties who have appeared according to the rules and practice of said court, at a special term thereof, for the confirmation of such report, and the court shall thereupon confirm such report, and shall make an order containing a recital of the substance of the proceedings, and shall also direct to whom the money is to be paid. (*Added by Laws of 1882, chap. 393.*)

Ibid.

§ 46. Upon the expiration of thirty days after the entry of said order of confirmation, and upon the presentation of a certified copy thereof, the county treasurer or trust company shall pay the sums awarded by such order to the persons entitled thereto under the provision of said order. Within twenty days after the entry of said order confirming the report of the commissioners and service thereof upon all parties who have appeared, any party may appeal, by notice in writing served upon all who have appeared, and upon the county clerk and county treasurer, to the general term of the Supreme Court from the said order of confirmation; and service of such notice upon the county treasurer or trust company shall stay all payments by him or it until the further order of the court. Such appeal shall be heard by the Supreme Court at any general term thereof, on notice thereof being given according to the rules and practice of said court. On the hearing of such appeal the court may affirm the order so appealed from, or may reverse the same and direct a new apportionment before the same or new commissioners, in its discretion; and in case a new apportionment shall be directed, the second report shall be final and conclusive upon all parties interested. (*Added by Laws of 1882, chap. 393.*)

County treasurer or trust company to retain award in certain cases.

§ 47. In case any award shall have been made by said commissioners for diminution in value of any property, the owners of or persons interested in which shall not have appeared in said proceedings, the amount of such award shall be retained by the county treasurer or trust company, subject to such order as the court may afterward make. (*Added by Laws of 1882, chap. 393.*)

Excess of award over amount deposited to be repaid to corporation.

§ 48. In case the aggregate amount awarded to the several owners and persons interested shall be less than the amount deposited with the county treasurer or trust company as aforesaid, the excess of such amount shall be repaid to the corporation depositing the same, such repayment not to be made until thirty days after final confirmation of the report of the commissioners of apportionment. (*Added by Laws of 1882, chap. 393.*)

Proceedings where negotiable securities are deposited in lieu of money.

§ 49. In case the said corporation shall have deposited with the county treasurer or trust company negotiable securities in lieu of moneys, as provided in the sixth section hereof, then upon the confirmation of the report of the commissioners of apportionment, the county treasurer or trust company shall notify said railway company to pay to him the aggregate amount awarded by said report, and upon its failure so to do, shall sell the said securities, or such part thereof as may be necessary for the purpose of raising such amount. (*Added by Laws of 1882, chap. 393.*)

When other securities are to be substituted.

§ 50. In case any of the securities which may be deposited in lieu of money as provided in the sixth section hereof, shall, in the opinion of the county treasurer or trust company with whom they may be deposited, fall below their actual value at the time of deposit, the said county treasurer or trust company shall call upon said railway company to substitute therefor other securities equivalent at their par and market value to the amount in lieu of which the securities for which they are to be substituted were deposited, and in case such other securities shall not be furnished, the said county treasurer or trust company shall call upon said railroad company to furnish as a substitute, and said railroad company shall so furnish, an amount of money equal to the amount in lieu of which the securities first above referred to were deposited. (*Added by Laws of 1882, chap. 393.*)

Appointment of commissioners to estimate and fix damages; proceedings thereupon.

§ 51. Any corporation heretofore organized under the provisions of the act hereby amended, and which has not constructed its railway and has obtained the consent of the local authorities to the construction and operation of a railway upon any or all of the routes designated for it by its articles of association, and whose rights under such consent have not terminated, and whose proposed railway lies wholly within the limits of any city, may, within ninety days after the passage of this act, apply to the mayor of such city for the appointment of commissioners to estimate and fix the damages to be caused by the construction and operation of its railway upon and along the streets or highways as to which such consent has been given.

Such mayor shall thereupon appoint three disinterested and competent freeholders, residents in such city, who shall thereupon each take and subscribe an oath faithfully to perform the duties of his office; and the commission provided by this section shall thereupon have all the powers and authority as to ascertaining, estimating and fixing damages that the commissioners mentioned in the first section of this act have as to any corporation organized, or to be organized by them, and all the provisions of this act as to ascertaining, estimating and fixing damages, the deposit of money or securities in lieu thereof, and the proceedings and authority to distribute and apportion the same, and the effect of a failure to make the deposit as thus required, shall apply to such corporation and commission, ex-

cept so far as inconsistent with this section, and after a commission shall have been appointed under this section to ascertain, estimate and fix damages as hereinbefore provided, the corporation which made the application therefor may proceed without prejudice to obtain such other consent or authority as it may require, and the proceedings had under the authority given by this section may be presented in aid of any application it may make. (*Added by Laws of 1882, chap. 393.*)

(None of the provisions of this act, to wit, chap. 393, Laws of 1882, shall apply to the counties of New York and Westchester, and nothing herein contained shall be deemed to affect existing provisions of law, as to the acquisitions of the title to real estate for railroad purposes. § 5, chap. 393, Laws of 1882.)

CHAP. 485, LAWS OF 1881.

AN ACT to amend and supplementary to chapter 606 of the Laws of 1875, entitled "An act further to provide for the construction and operation of a steam railway or railways in the counties of the State," as amended by chapter 417 of the Laws of 1880.

(Section 1 amends Laws of 1875, chap. 606, § 4. See page 533 hereof.)

Route in case of exempted streets.

§ 2. Wherever any street or part of a street, by this act exempted from the provisions of the acts hereby amended, has, by commissioners appointed by the mayor as in said amended acts provided, been designated or determined upon, as a portion of the route of a steam railway, and a corporation has been formed under said acts to construct a railway over or on such exempted streets, the said commissioners shall have the power to fix, determine and locate a route for the railway of such corporation over, under, through or across the streets, avenues, places or lands not exempted, in the city where such exempted street is located, as may by such commissioners be deemed to be necessary or proper on account of such street having been exempted as aforesaid, but in the same general direction as such exempted street. Nothing in this act contained shall affect any rights or proceedings of such corporation in or to the remaining portion of its route, and all such proceedings may be continued, and such commissioners may strike from the route of such corporation all portions thereof which they deem have been rendered inappropriate or inapplicable by this act. The term street in this section shall be deemed to include avenue or place.

Plans; right to build railways.

§ 3. The said commissioners shall also have the power, at the same time, to fix the plan or plans for the railway to be built upon the route by them fixed as herein provided, but such plans shall be of the same general character as those by them theretofore for the railway of such company provided, and they shall certify and verify by affidavit their proceedings had under this and the preceding section, and file such certificate and affidavit in the office of the Secretary of State with and as a part of the articles of incorporation of such corporation, theretofore filed, and a copy of such certificate and affidavit, certified to be a copy by the Secretary of State or his deputy, shall be presumptive evidence of the facts therein stated. Such corporation shall have the right to build and operate its railway upon the route fixed therefor (as in this and the preceding section provided) subject to the provisions and requirements contained in the section amended by the first section of this act, and all the provisions of the acts by this act amended, not inconsistent herewith, shall apply to the route fixed as in this and the preceding section provided, and the route under such sections fixed and the portion remaining of the route originally fixed shall be and be deemed to be the route for the railway of such corporation.

CHAP. 267, LAWS OF 1880.

AN ACT authorizing individuals, joint-stock associations or corporations engaged in the manufacture of railroad cars to lay down and maintain railroad tracks connecting their manufacturing establishments with existing railroads.

May lay down and maintain railroad tracks ; proviso.

SECTION 1. Any individual, joint-stock association or corporation now or hereafter engaged in the manufacture of railroad cars in this State may lay down and maintain such railroad tracks, not exceeding one mile in length, as shall be necessary to connect such manufacturing establishment with the tracks of any railroad now or hereafter operated in this State ; provided they shall obtain the consent of the owners of one-half in value the property bounded on, and the consent also of the local authorities having the control of that portion of a street or highway upon which it is proposed to construct or operate such railroad be first obtained, or in case the consent of such property owners cannot be obtained, the general term of the Supreme Court, in the district in which it is proposed to be constructed, may, upon application, appoint three commissioners, who shall determine, after a hearing of all parties interested, whether such railroad ought to be constructed or operated, and their determination, confirmed by the court, may be taken in lieu of the consent of the property owners.

Limitation of act.

§ 2. The provisions of this act shall not apply to the counties of New York and Kings.

CHAP. 62, LAWS OF 1853.

AN ACT to regulate the construction of roads and streets across railroad tracks.

Laying out streets or highways across railroad tracks.

SECTION 1. It shall be lawful for the authorities of any city, village or town in this State, who are by law empowered to lay out streets and highways, to lay out any street or highway across the track of any railroad now laid or which may hereafter be laid, without compensation to the corporation owning such railroad ; but no such street or highway shall be actually open for use until thirty days after notice of such laying out has been served personally upon the president, vice-president, treasurer or a director of such corporation.

Railroad corporations to cause street laid out across their track to be taken at most convenient place for public travel.

§ 2. It shall be the duty of any railroad corporation, across whose track a street or highway shall be laid out as aforesaid, immediately after the service of said notice, to cause the said street or highway to be taken across their track, as shall be most convenient and useful for public travel, and to cause all necessary embankments, excavations and other work to be done on their road for that purpose ; and all the provisions of the act, passed April 2, 1850, in relation to crossing streets and highways, already laid out, by railroads, and in relation to cattle-guards and other securities and facilities for crossing such roads, shall apply to streets and highways hereafter laid out.

Penalty for neglect or refusal.

§ 3. If any railroad corporation shall neglect or refuse, for thirty days after the service of the notice aforesaid, to cause the necessary work to be done and completed, and improvements made on such streets or highways across their road, they shall forfeit and pay the sum of \$20 for every subsequent day's neglect or

refusal, to be recovered by the officers, laying out such street or highway, to be expended on the same; but the time for doing said work may be extended, not to exceed thirty days, by the county judge of the county in which such street or highway, or any part thereof, may be situated, if, in his opinion, the said work cannot be performed within the time limited by this act.

CHAP. 392, LAWS OF 1875.

AN ACT for the better security of railroad employees for labor performed.

Lien for labor upon rolling stock, track, etc.

SECTION 1. Any person who shall hereafter perform any labor for a railroad corporation shall, on filing with the county clerk of any county in which such railroad corporation is situated, or through which the road of such corporation passes, the notice prescribed by the second section of this act, have a lien for the value of such labor upon such railroad track, rolling stock and appurtenances, and upon the land upon which such railroad track and appurtenances are situated, to the extent of the right, title and interest of such railroad corporation in the property existing at the time of filing the said notice.

When notice to be filed; to be entered by county clerk on "lien docket;" fee.

§ 2. Within thirty days after the performance and completion of such labor, such person shall file a notice, in writing, with the county clerk of the county where the property is located, specifying the amount of claim, and the corporation against whom the claim is made. The county clerk shall enter the particulars of such notice in a book to be kept in his office, to be called the "lien docket," with the name of claimant, amount claimed, the name of such corporation against which such claim is made, and the date of the filing of the notice, hour and minute. A fee of ten cents shall be paid to said clerk on filing such lien, and said notice, when so filed, shall thereafter operate as an incumbrance upon said property.

Value of labor to be proved on trial.

§ 3. Any person performing labor, in availing himself of the provisions of this act, shall upon the trial, or at the assessment of damages, produce evidence to establish the value of such labor, and that the same was performed for such railroad corporation.

Lien, how enforced.

§ 4. Any laborer performing any work, or assignee thereof, may, after such labor is performed, and the service of the notice required by the first section of this act, bring an action in any of the courts of the county in which said property is situated to enforce said lien, requiring such railroad corporation to appear, by attorney, within thirty days after such service and answer the same, or, in default thereof, the claimant may take judgment for the amount of claim and costs.

Lien to continue one year.

§ 5. Every lien created under the provisions of this act shall continue until the expiration of one year, unless sooner discharged by the court or some legal act of the claimant in the proceedings; but when a judgment is entered therein, and docketed with the county clerk within said year, it shall be a lien upon the real property of the railroad corporation against whom it is obtained to the extent that other judgments are now made a lien thereon.

Priority of liens.

§ 6. The liens created and established by virtue of the provisions of this act shall be paid and settled according to the priority of the notice filed with the county clerk, as directed by the second section hereof.

Liens, how discharged.

§ 7. All liens created by this act may be discharged as follows:

1. By filing with the county clerk a certificate of the claimant, or his successors in interest, acknowledged or proved in the same manner as a conveyance of real estate, stating that the lien has been paid or discharged; or
2. By depositing with the court or clerk of the court a sum of money equal to

double the amount claimed, which money shall be thereupon held subject to the determination of the lien; or

8. By an entry of the county clerk, made in the book of liens, that the proceedings on the part of the claimant have been dismissed by the court in which it is brought, or a judgment rendered against the said claimant; or

4. By an affidavit of the service of a notice from such railroad corporation, or its attorney, to the claimant, requiring such claimant to commence an action for the enforcement of said lien within twenty days after service of said notice, and the failure of said claimant to commence an action as aforesaid.

Personal liability of stockholders; notice; time for commencing action.

§ 8. Each and all the stockholders of such corporation shall be jointly and severally liable for the debts due or owing to any of its laborers or servants, other than contractors, for personal service for ninety days' service, or less than ninety days' service, performed for such corporation, but shall not be liable to an action therefor, before an execution shall be returned unsatisfied in whole or in part against the corporation, and the amount due on such execution shall be the amount recoverable with costs against such stockholders; before such laborer or servant shall charge such stockholders for such ninety days' service, or less than ninety days' service, he shall give notice in writing, within twenty days after the performance of such service, that he intends to so hold him liable, and shall commence such action therefor within thirty days after the return of such execution unsatisfied, as above mentioned; and every such stockholder against whom any such recovery by such laborer or servant shall have been had, shall have a right to recover the same of the other stockholders in such corporation in ratable proportion to the amount of the stock they shall respectively hold with himself.

CHAP. 376, LAWS OF 1885.

AN ACT to provide for the payment of wages to employees, operatives and laborers of domestic corporations, other than insurance and moneyed corporations, of which a receiver shall be appointed.

Wages of employees to be preferred.

SECTION 1. Where a receiver of a corporation created or organized under the laws of this State and doing business therein, other than insurance and moneyed corporations, shall be appointed, the wages of the employees, operatives and laborers thereof shall be preferred to every other debt or claim against such corporation, and shall be paid by the receiver from the moneys of such corporation which shall first come to his hands.

CHAP. 529, LAWS OF 1870.

AN ACT in relation to mechanics' liens.

Provisions of lien law extended to railroad bridges and trestle work.

SECTION 1. The provisions of the laws relating to mechanics' liens heretofore passed shall apply to bridges and trestle work erected for railroads and materials furnished therefor, and labor performed in constructing said bridges, trestle work and other structures connected therewith; and the time within which said liens may be filed shall be extended to ninety days from the time when the last work shall have been performed on said bridges, trestle work and structures connected therewith, or the time from which said materials shall have been delivered. This act shall apply to all uncompleted work commenced previous to the passage of this act.

CHAP. 432, LAWS OF 1873.

AN ACT to authorize the use of improved motive power on railroads in any city or county of this State.

Mayor and common council, etc., may allow use of improved motive power on street railroads.

SECTION 1. The mayor and common council of any city, the board of trustees of any village, and as to streets or roads outside of any such city or village, the board of supervisors of any county of this State are hereby authorized to permit the use of any improved motive power or motor, for the traction or propelling of

cars on any city or street railroad which is or may be constructed and operated by horse power, within their respective jurisdiction, such permission to be subject to such restrictions, regulations and conditions as the said local authorities may impose, and subject to revocation at any time by the authority granting the same, by a two-third vote of its members.

Increase of fare not authorized.

§ 2. Nothing contained in this act shall authorize an increase of the rate of fare, nor allow the transportation of freight in any city, or allow the use of the ordinary dummy or box-car engine, or of locomotives of the kind now used for the traction of cars on steam railroads of this State. Nothing in this act contained shall affect any contract in relation to the removal of steam power on any street in any city of this State.

CHAP. 470, LAWS OF 1881.

AN ACT in relation to rates of fare upon certain surface steam railroads.

Rate of fare.

SECTION 1. Any surface steam railroad company created by the laws of this State, whose main line does not exceed fifteen miles in length, and does not enter or traverse the limits of any incorporated city, may collect and receive fare at the rate of five cents each from any and all passengers traveling upon its road a distance of one mile or less; but nothing herein contained shall be deemed to authorize such railroad company to collect or receive fare from passengers traveling upon its road or any connecting line a distance of more than one mile at a greater rate than is now allowed by law for each mile or fraction thereof traveled by them.

CHAP. 906, LAWS OF 1867.

AN ACT to amend the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, in relation to reports of railroad corporations.

Prior act limited.

SECTION 1. The requirements of section 81 of the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April second, 1850, shall not apply to street or horse railroads, except as hereinafter provided.

Annual report.

§ 2. Every railroad corporation in this State whose road is operated by horse power exclusively, or by steam dummy cars exclusively, or partly by horse power and partly* steam dummy cars, and every such railroad corporation which shall be hereafter organized, shall make an annual report to the State Engineer and Surveyor, of the operations of the year ending on the thirtieth day of September; which report shall be verified by the oaths of the treasurer or president and acting superintendent of operations, and be filed in the office of the State Engineer and Surveyor by the first of December in each year, and shall state

1. The amount of capital stock.
2. The amount of stock subscribed.
3. The amount paid in as by last report.
4. The total amount now of capital stock paid in.
5. The funded debt as by last report.
6. The total amount now of funded debt.
7. The floating debt as by last report.
8. The amount now of floating debt.
9. The total amount now of funded and floating debt.
10. The average rate per annum of interest on funded debt.

* So in original.

Cost of road and equipment.

11. For road-bed and superstructure, including iron, by last report.
12. The total amount now expended for the same.
13. For land, buildings and fixtures, including land damages, by last report.
14. The total amount now expended for the same.
15. For dummy cars, horses, mules and harness, by last report.
16. The total amount now expended for the same.
17. For cars and sleighs, by last report.
18. The total amount now expended for the same.
19. Total cost of road and equipment.

Characteristics of road.

20. Length of road, in miles.
21. Length of road laid.
22. Length of double track, including sidings.
23. Weight of rail, by yard.
24. The number of dummy cars, of cars, and of horses and mules.
25. The total number of passengers carried in cars.
26. The total number of tons of freight carried in cars.
27. The rates of fare for passengers.
28. The average time consumed by passenger cars in passing over the road.

Expenses of maintaining the road and real estate.

29. Repairs of road-bed and railway (including iron), and repairs of buildings and fixtures.
30. Taxes on real estate (to include all taxes except for United States revenue).
31. Total cost of maintaining road and real estate.

Expenses of operating road, and for repairs.

32. General superintendence.
33. Officers, clerks, agents and office expenses.
34. Conductors, drivers and engineers on dummy cars.
35. Watchmen, starters, switchmen, roadmen, etc.
36. Repairs of dummy cars.
37. Repairs of cars and sleighs.
38. Repairs of harness, including materials and labor.
39. Horseshoeing, including materials and labor.
40. Horses and mules.
41. Stable expenses.
42. Feed, grain, hay, etc., including expense of grinding.
43. Fuel, gas and lights.
44. Oil and waste.
45. Water tax.
46. Damages to persons and property, including medical attendance.
47. Law expenses.
48. Rents, including use of other roads, ferries, etc.
49. Insurance.
50. Advertising and printing.
51. United States tax on earnings.
52. Contingencies.
53. Total expense of operating road and repairs.
54. Receipts from passengers.
55. Receipts from freight.
56. Receipts from all other sources, specifying what, in detail.
57. Total receipts from all sources during the year.
58. Payments for transportation, maintenance and repairs.
59. Payments for interest.
60. Payments for dividends on stock, amount and rate per cent.
61. All other payments, specifying what, in detail.

62. Total payments during the year.

63. The number of persons injured in life and limb; the cause of the injury, and whether passengers, employees or other persons. Also whether such accidents have arisen from carelessness or negligence of any person in the employment of such corporation, and whether such person is retained in the service of the corporation.

(Section 3 amends the General Railroad Act of 1850, § 32.)

Application of act.

§ 4. The provisions of section 32 of the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April second, 1850, as herein amended, shall apply to all railroad corporations referred to in section 2 of this act.

CHAP. 349, LAWS OF 1882.

AN ACT to authorize the use of the tracks of horse railroads in certain cases.

Railroad companies may use tracks of other roads to make connections.

SECTION 1. It shall be lawful for any railroad corporation in this State whose cars are run and operated by horses on tracks upon the surface of the street, for the purpose of enabling it to connect with and run and operate its cars between its tracks as now run and operated, and a depot or car-house owned by it, to run upon, intersect and use, for not exceeding the distance of 500 feet, the tracks of any other railroad corporation, the cars of which are run and operated in like manner, with the necessary connections and switches for the proper working and accommodation of the cars upon the said tracks and in connection with such depot or car-house.

Compensation.

§ 2. Any corporation availing itself of the privileges granted by the first section of this act shall pay therefor such compensation as it may agree upon with the corporation owning the tracks which it is thereby authorized to run upon, intersect and use; and in case the said corporations cannot agree as to the amount of such compensation, the same shall be ascertained and determined by commissioners to be appointed by the Supreme Court as is now provided by law in respect to acquiring title to real estate by railroad corporations.

Not to affect surface roads in New York city, or on Washington street in the city of Brooklyn.

§ 3. This act shall not affect any surface railroad in the city and county of New York, nor shall any thing herein contained be construed as authorizing the use or crossing of any railroad tracks now constructed on Washington street in the city of Brooklyn, or the construction, laying and maintenance of any tracks, switches, sidings, connections or turnouts upon said Washington street, or upon any street where it intersects or crosses the same.

CHAP. 254, LAWS OF 1884.

AN ACT to provide for the construction, extension, maintenance and operation of street surface railroads and branches thereof in cities, towns and villages.

Corporators, not less than thirteen; articles of association, what to contain when filed; duty of Secretary of State; subject to provisions of title 3, chapter 18 of the first part of the Revised Statutes, except seventh section; subject to General Railroad Act, except as modified; certificate to be filed with Secretary of State; what to contain.

SECTION 1. Any number of persons, not less than thirteen, may make and sign

articles of association, and form a company for the purpose of constructing, maintaining and operating a street surface railroad for public use in the conveyance of persons and property in cars for compensation, in any of the cities, towns or villages of this State, or in any two or more civil divisions thereof. Such articles of association shall state the name of the company, the number of years the same is to continue, the names of the cities, towns and villages, and the counties, and the names or description of the streets, avenues and highways in which the road is to be constructed, the places from and to which the road is to be constructed, maintained and operated, the length of said road, or as near as may be, the amount of the capital stock of the company, which shall not be less than \$10,000 for every mile of road constructed, or proposed to be constructed, and the number of shares of which said capital stock shall consist, and the names and places of residence of the seven or more directors of the company who shall manage its affairs for the first year, and until others are chosen in their places. Each subscriber of said articles of association shall subscribe thereto his name, place of residence, and number of shares of stock he agrees to take in said company. Such articles of association shall be filed in the office of the Secretary of State when \$1,000 of stock for every mile of railroad proposed to be constructed has been subscribed thereto, and ten per cent paid thereon in good faith, in cash, to the directors named in said articles of association, and when there is indorsed on said articles of association, or annexed thereto, an affidavit made by at least three of the directors named in said articles, that the amount of stock required by this section has been in good faith subscribed, and ten per cent paid in cash thereon, as aforesaid, and that it is intended in good faith to construct or to maintain and operate the road mentioned in such articles of association, which affidavit shall be recorded with the articles of association. The Secretary of State shall indorse on said articles of association the day they are filed, and record the same and said affidavit in a book to be provided by him for that purpose; and from the date of such filing the persons who have so subscribed such articles of association, and all persons who shall become stockholders in such company shall be a corporation by the name specified in such articles of association, and shall possess the powers and privileges granted to corporations, and be subject to the provisions contained in title 3 of chapter 18 of the first part of the Revised Statutes, except the provisions contained in the seventh section of said title. Such corporation shall also have all the powers and privileges granted, and be subject to all the liabilities imposed by this act, or by the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, and the several acts amendatory thereof, except as the said acts are herein modified. No existing street surface railroad company shall extend its line, or construct any branch thereof under this act, until it has made and filed with the Secretary of State a certificate signed by its board of directors, which certificate shall contain a statement of the name of the cities, towns, villages and counties, and the names or description of the streets, avenues and highways in which such extension or branch is to be constructed, the places from and to which the same is to be constructed, maintained and operated, and the length thereof as near as may be.

Board of directors; their number.

§ 2. The board of directors of every corporation formed under this act shall consist of not less than seven nor more than thirteen.

Powers and privileges; proviso; consent of owners to be acknowledged; who are the local authorities.

§ 3. Any company organized as aforesaid, or any existing street surface railroad company or corporation heretofore organized for the purpose of building and operating a street railroad, may construct, maintain, operate, use and extend a railroad or branches on the surface of the soil, through, upon and along any of the streets, avenues, roads or highways of such cities, towns and villages, and also through, along and upon any private property which said company may acquire for the purpose, and may also construct such switches, sidings, turnouts and turn-tables, and suitable stands as may be necessary for the convenient working of such road, provided that the consent in writing of the owners of one

half in value of the property bounded on, and the consent also of the local authorities having control of that portion of a street or highway upon which it is proposed to construct or operate such railroad, be after the passage of this act first obtained. The consent of such owners shall be acknowledged as are deeds entitled to be recorded. In any city the common council acting subject to the power now possessed by the mayor to veto ordinances, and in any village the board of trustees shall be the local authorities to give all the consents required under this act in respect of such city or village. Provided that where in any city the exclusive control of any street, road, highway, avenue, or property which is to be used or occupied by any such company is, by law, vested in any local authority other than the common council of such city, the consent of the local authorities, in whom such exclusive control is so vested, shall be also obtained.

Notice; to be published for how long time; consent of local authorities to be applied for in writing; when consent shall cease; value, how determined; when consent of property holders is not obtained.

§ 4. In incorporated cities, before acting upon an application for their consent, the local authorities shall give public notice of such application and of the time and place when such application will first be considered by a notice thereof, to be published daily for at least fourteen days in two daily newspapers of said city, to be designated by the mayor of the city. And when such application is made to the local authorities of any incorporated village, the notice of such application shall be published for at least fourteen days in a newspaper published in said village, if any there shall be; if none, then in two daily newspapers published in the city nearest such village. The consent of the local authorities shall in all cases be applied for in writing, and when granted, shall be upon the express condition that the provisions of this act pertinent thereto shall be complied with, and shall be filed in the office of the county clerk of the county in which said railroad is located. Any consent so given by said local authorities shall cease and determine at the expiration of one year thereafter, unless prior to the expiration of such period the company obtaining such consent shall have filed the consent of the requisite amount in value of property owners or the determination of commissioners confirmed by the court, as herein provided. The consent of the local authorities, given as aforesaid, shall operate as the consent of such city, town or village, as the owners of any property, that such railroad may be constructed, maintained and operated in, upon and along any street, avenue, road or highway by which such property is bounded, except that where such railroad runs through any street or avenue bounded on one side by any public park or square, the consent of one-half the owners of property on the other side of said street or avenue, and opposite such park or square, shall also be first obtained. For the purposes of this act the value of the property so bounded shall be ascertained and determined from the assessment-roll of the city or town in which such property is situated, confirmed or completed last before the local authorities shall have given their consent, excepting such property owned by such city, town or village, the value of which shall be ascertained and determined by allowing therefor the same price or value as is shown by such assessment-roll to be the value of the equivalent in size and frontage of any adjacent property on the same street. In case the consent of property owners required by any provision of this act cannot be obtained, the company so failing to obtain such consents may apply to any general term of the Supreme Court held in the district in which the road of such company is proposed to be constructed, for the appointment of three commissioners to determine, after a hearing of all parties interested, whether such railroads ought to be constructed and operated.

Id.; service of notice; commissioners to be appointed; vacancies.

§ 5. Notice of such application shall be served personally upon each property owner not having given his consent by delivering the same to him or his agent or representative, as such owner, agent or representative appears upon such assessment-roll of the city or town in which the property is situated; or by mailing the same, properly folded and directed, to such owner, agent or representative, at the post-office nearest his usual place of residence, with the postage paid thereon, at least ten days prior to such application. If the person on whom such service is

to be made is unknown, or his residence is unknown, and cannot by reasonable diligence be ascertained, no service of such notice, personally or by mail, need be made. And said general term of the Supreme Court to which such application is made, upon due proof of the service aforesaid, shall appoint three disinterested persons, who shall act as commissioners, and said commissioners, within ten days after their appointment, shall cause public notice to be given of their first sitting, in the manner directed by said general term, and may adjourn from time to time until all their business is completed. Vacancies may be filled by said general term, after such notice to persons interested as it may deem proper to be given, and the evidence taken before as well as after the occurring of the vacancy shall be deemed to be properly before said commissioners.

Commissioners to determine whether road ought to be constructed to be confirmed by court; taken in lieu of consent of property owners shall be made within sixty days unless extended.

§ 6. The said commissioners shall determine, after such public hearing of all parties interested, whether such railroad ought to be constructed and operated, and shall make a report thereon, together with the evidence taken, to said general term, and their determination that such road ought to be constructed and operated, confirmed by said court, shall be taken in lieu of the consent of the property owners before mentioned. Such report shall be made within sixty days after appointment of said commissioners, unless the said court or a judge thereof shall, for good cause shown, extend such time.

Local authorities may provide for sale of franchise; notice to be published.

§ 7. The local authorities of any incorporated city or village to whom application, under the provisions of this act, may be made for consent to the construction, maintenance, use, operation or extension of a street surface railroad upon any street, road, avenue or highway, may, at their option, provide for the sale of, and sell at public auction the franchise, subject to all the provisions of this act, to so construct, maintain, use, operate or extend such street surface railway. Prior to such sale, notice of the time, place and terms thereof, and of the route to be sold, and of the conditions upon which the consent of said local authorities to the construction, maintenance, use, operation or extension of a surface street railroad thereon will be given, shall be published three times a week for at least three weeks, in two daily newspapers of said city, to be designated by the mayor of said city. And local authorities of any incorporated village shall, prior to any sale by them as herein provided, cause the above notice provided for to be published three times a week for at least three weeks in a newspaper published in said village, if any there shall be, if none, then in two daily newspapers published in the city nearest such village.

In cities having population of 250,000 or more, corporation to pay percentage of gross receipts into city treasury; in other incorporated cities or villages where company or corporation fail to pay such percentage, verified report to be made; forfeiture; false report; punishment therefor.

§ 8. Every corporation incorporated under, or constructing or operating a railroad constructed or extended under the provisions of this act, within the cities of the State having a population of 250,000 or more, as aforesaid, shall for and during the first five years after the commencement of the operation of any portion of its railroad, annually, on the first day of November, pay into the treasury of said respective cities, in which its road is located, to the credit of the sinking fund thereof, three per cent of its gross receipts for and during the year ending the next preceding thirtieth day of September, and after the expiration of said five years make a like annual payment into the treasury of said respective cities for the credit of said sinking funds of five per cent instead of three per cent of said gross receipts; provided, however, that every corporation now existing and operating a street surface railroad which shall extend its tracks or construct branches therefrom, and operate such extensions or branches under the provisions of this act, or the corporation operating such branches or extensions, shall pay such percentages as aforesaid only upon such portion of its gross receipts as shall bear

the same proportion to the whole value thereof as the length of such extension and branches shall bear to the entire length of its tracks. In any other incorporated city or village the local authorities shall have the right to require, as a condition to their consent to the construction, operation or extension of a railroad under the provisions of this act, the payment annually of such percentage of gross receipts, not exceeding three per cent, into the treasury of said city or village, as they may deem proper. In case of extension the amount to be paid shall be ascertained in the manner hereinbefore provided. The company or corporation failing to pay such percentage of its gross earnings, as aforesaid, shall, after said first day of November, pay in addition thereto five per cent a month on such percentage until paid. The president and treasurer of any company required by the provisions of this act to make a payment annually upon its gross receipts shall, on or before the first day of November in each year, make a verified report to the comptroller or treasurer of the city, of the gross amount of its receipts for the year ending the next preceding thirtieth day of September, and the books of said company shall be open to inspection and examination by said comptroller, treasurer, or his duly appointed agent, for the purpose of ascertaining the correctness of said report as to said gross receipts. The corporate rights, privileges and franchises acquired under this act, by any corporation which shall fail to comply with all the provisions of this section, shall be forfeited to the people of the State of New York, and upon judgment of forfeiture rendered in a suit brought in the name of the people by the Attorney-General, shall cease and determine. Any person intentionally making a report as herein provided, which shall be false, shall be guilty of perjury.

Corporation to keep certain portions of streets in repair; when neglected, local authorities may enact ordinances; penalty.

§ 9. Every such corporation incorporated under, or constructing, extending or operating a railroad constructed or extended under the provisions of this act, within the incorporated cities and villages of this State, shall also whenever and as required and under the supervision of the proper local authorities, have and keep in permanent repair the portion of every street and avenue between its tracks, the rails of its tracks and a space two feet in width outside and adjoining the outside rails of its track or tracks so long as it shall continue to use such tracks so constructed under the provisions of this act. In case of the neglect of such corporations to make such pavement or repairs, the local authorities may make the same at the expense of such corporation, after the expiration of thirty days' notice to do so. The local authorities having charge of streets, avenues, roads or highways in cities and incorporated villages may make such reasonable ordinances or regulations as to the rate of speed, mode of use of tracks, and removal of ice and snow, as the interest and convenience of the public may require. A corporation whose servants or agents willfully or negligently violate such an ordinance or regulation, as aforesaid, shall be liable to such city or village for a penalty not exceeding \$500.

Within what time road to be built.

§ 10. In case any corporation incorporated under this act, or seeking to to* extend its road under the provisions thereof, shall not commence the construction or extension of its road within one year after it has acquired the consent of the local authorities and property owners, or determination of the general term of the Supreme Court, as herein required, and shall not complete the same within three years after obtaining such consents, its rights, privileges and franchises acquired under the provisions of this act shall cease and determine. During the pendency of legal proceedings the Supreme Court shall have power to extend the period for the performance of any act herein required.

Compensation of commissioners.

§ 11. The commissioners provided for in this act, to be appointed by the general term, shall receive the sum of \$10 each per day for each and every day

* So in original.

they may be engaged, and the charges, expenses and disbursements of such commissioners shall be paid by the company making the application for their appointment.

Motive power.

§ 12. Any street surface railway company may in any case operate any portion of its road by animal or horse power, or by any power other than locomotive steam power, which may be consented to by the local authorities and by a majority of the property owners, obtained in accordance with sections 3 and 4 of this act.

Rate of fare; where not to apply.

§ 13 No company or corporation incorporated under, or constructing and operating a railroad under the provisions of this act, shall charge any passenger more than five cents for one continuous ride from any point on its road, or on any road or line or branch operated by it, or under its control, to any other point thereon, or on any connecting branch thereof within the limits of any incorporated city or village. This section shall not be construed to apply to any part of any road heretofore constructed, and now in operation, unless such company shall acquire the right to extend such road, or to construct branches thereof under the provisions of this act, in which event its rate of fare shall not exceed its authorized rates prior to such extension.

Not to construct road in street, etc., where other surface road is built without consent of such other road; proviso; commissioners.

§ 14. Except for necessary crossings, no street surface railroad company shall construct, extend or operate its road or tracks in that portion of any street, avenue, road or highway in which a street surface railroad is, or shall be lawfully constructed, except with the consent of the company owning and maintaining the same; provided, however, that any two or more railroad companies now existing, or hereafter formed under the provisions of this act, may join and unite and use each other's tracks for a distance not exceeding 1,000 feet, whenever the court, upon an application for the appointment of commissioners, next hereinafter provided, shall be satisfied that such use is actually necessary to connect main portions of a line to be constructed as an independent railroad, and that the public convenience requires the same, in which event the right of such use shall be given only for a compensation to an extent and in a manner to be ascertained and determined by commissioners to be appointed by the courts, as provided in respect to acquiring title to real estate under chapter 140 of the Laws of 1850, entitled "An act to authorize the formation of railroad corporations, and to regulate the same," and the several acts amendatory thereof; or by the Board of Railroad Commissioners in cases where the companies interested shall unite in a request for such Board to act. Such commissioners, in determining the compensation to be paid for the use by one company of the tracks of another, shall consider and allow for the use of tracks and for all injury and damage to the company whose tracks may be so used.

Corporation may lease portions of its track to other corporations; restriction.

§ 15. It shall be lawful for any street surface railroad company or companies to lease, or to transfer its or their right, subject to all its or their obligations in respect thereof, to run upon or to use any portion of its or their railroad tracks, to any other street surface railroad company authorized to run upon such route, upon such terms as may be agreed upon by a majority of the respective boards of directors thereof, subject to approval or rejection by a vote of a majority of the stock represented at meetings of the stockholders of each of such companies, called for that purpose, and held within three months after such agreement shall have been adopted by the several boards of directors. But nothing in this section shall be construed to authorize any railroad company in cities of over 300,000 population, to lease its rights or franchises to any other company in said cities which owns and operates a road parallel thereto.

No road to be constructed under chapter 606, Laws of 1875.

§ 16. No street surface railroad shall be constructed to run in whole or in part upon the surface of any street or highway under the authority of any commission appointed under the provisions of chapter 606 of the Laws of 1875, entitled "An act further to provide for the construction and operation of a steam railway or railways in counties of the State," or the acts in addition thereto or amendatory thereof.

Nor upon ground occupied by public buildings or parks; exception.

§ 17. No street surface railroad shall be constructed or extended under the provisions of this act upon ground occupied by buildings belonging to any town, city, county, or to this State, or to the United States, or in public parks, except in tunnels, to be approved by the local authorities having control of such parks.

Repeal; proviso.

§ 18. All acts and parts of acts, whether general or special, inconsistent with this act are hereby repealed, but nothing in this act shall revive or make valid for the purposes of this act any consents of property owners or local authorities obtained prior to the passage of this act, or shall interfere with or repeal or invalidate any rights heretofore acquired under the laws of this State by any horse railroad company, or affect or repeal any right of any existing street surface railroad company to construct, extend, operate and maintain its road in accordance with the terms and provisions of its charter, and the acts amendatory thereof, or revive any charter which has become lapsed or forfeited, or any pending litigation.

Power of Legislature, etc.

§ 19. The Legislature may at any time alter, amend or repeal this act.

CHAP. 305, LAWS OF 1885.

AN ACT authorizing street surface railroad companies to contract with each other, and providing for a proper system of transfer of passengers.

Street surface roads may contract with each other.

SECTION 1. It shall be lawful hereafter for any street surface railroad company, or any corporation owning or operating a street surface railroad or railroad route, to contract with any other such company or corporation for the use of their respective roads or routes, or any portion thereof, subject to the provisions, restrictions and conditions hereinafter stated, and thereafter to use or to permit the use of the same in such manner as may be prescribed in such contract. But nothing in this act shall authorize the road or route of any railroad corporation to be used or operated by any other railroad corporation in a manner inconsistent with the provisions of the charter of the corporation whose railroad or railroad route is to be used or operated under such contract.

Directors may enter into lease or contract.

§ 2. The directors of the companies may enter into such a lease or contract under the corporate seal of each company, such lease or agreement prescribing the terms and conditions thereof.

Agreement to be submitted to vote of stockholders; lease to be filed and recorded.

§ 3. Such lease or agreement shall be submitted to the stockholders of each of the said companies or corporations, at a meeting thereof, called separately for the

purpose of taking the same into consideration; due notice of the time and place of holding said meeting, and the object thereof, shall be given by each company to its stockholders by written or printed notices addressed to each of the persons in whose names the capital stock of such company stands on the books thereof, at the address of such persons as stated on such books, or as known to the secretary of the company, and delivered or mailed to such persons or the legal representatives of such persons respectively, at least thirty days before the time of holding the meeting of such company, and also by a general notice published daily for at least four weeks in some newspaper last designated for the publication of the session laws, or of judicial proceedings and legal notices in the county where such company has its principal office or place of business; and at the said meeting of stockholders the agreement of the said directors shall be considered, and a vote by ballot taken for the adoption or rejection of the same, each share entitling the holders thereof to one vote, and said ballots shall be cast in person or by proxy, and if two-thirds of all the votes of stockholders cast in person or by proxy at such meeting shall be for the adoption of said lease or agreement, then that fact shall be certified thereon by the secretaries of the respective companies under the seal thereof, and the lease or agreement so adopted, or a certified copy thereof, shall be filed and recorded in the office of the secretary of State, and shall from the time of such filing be deemed and taken to be the lease or agreement of the said companies; a copy of the said lease or agreement, duly certified by the secretary of State under his official seal, shall be evidence thereof in all courts and places.

Companies contracting shall carry passengers between any two points; one continuous trip for one fare; penalty.

§ 4. Each and every company entering into any contract under the power conferred by this act shall carry or permit any other party to such contract to carry between any two points on the railroads or portions thereof embraced within such contract, any passenger desiring to make one continuous trip between such points for one single fare not higher than the fare lawfully chargeable by either of such companies for an adult passenger; and each and every such company shall, upon demand and without extra charge, give to each passenger paying one single fare a transfer entitling such passenger to one continuous trip to any point or any portion of any railroad embraced within such contract, to the end that the public convenience may be promoted by the operation of the railroads embraced within such contract to the extent of their inclusion therein substantially as a single railroad with a single rate of fare. For every refusal to comply with the requirements of this section, the company so refusing, and having contracted as aforesaid, shall forfeit to the aggrieved party the sum of \$50, which may be recovered in any court of competent jurisdiction. This act shall not apply to cities having less than 800,000 population.

§ 5. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

CHAP. 140, LAWS OF 1882.

AN ACT authorizing individuals, companies, associations and private corporations to construct and operate private railroads in certain cases.

Lawful to build railroads on or across highway; proviso as to consents to be obtained; act not to apply to villages and cities; must not interfere with or obstruct the public use of any highway.

SECTION 1. It shall be lawful for any individual, company, association or private corporation to build and operate solely for the purpose of conducting the business of such individual, company, association or corporation, a railroad on or across any highway; provided that consent in writing, and under seal, of the

owners of all lands on which any such railroad may be built, abutting a highway, be first obtained; and provided further, that the consent in writing of the supervisor of the town in which any railroad proposed to be built under this act is located be also first obtained; and provided further, that this act shall not apply to any city or village; and provided further, that no such railroad shall be so located, graded, built or operated as to interfere with or obstruct the traveled part of any highway, or interfere with or obstruct the public use of any highway, or any highway intersecting the same.

CHAP. 317, LAWS OF 1881.

AN ACT to authorize a change, in certain cases, of the time for holding elections in railroad companies.

Companies may change time for holding elections.

SECTION 1. Any railroad company, the time for the annual election of directors in which is now fixed for any day in the month of June, may by a vote of a majority of the stock, either in person or by proxy, thereof to that effect, and filing in the office of the Secretary of State a copy of such proceedings, certified by the secretary of the company under its corporate seal, change the time for holding such annual election to any day in the month of April, provided, however, that the first election held under such resolution shall be held in the month of April which shall precede the time at which such election would otherwise have been held.

(Chapter 338, Laws of 1881, relates to elevated railroads.)

CHAP. 498, LAWS OF 1885.

AN ACT to authorize a change in certain cases of the time and place for holding elections of railroad companies.

Stockholders may change time for holding election of directors.

SECTION 1. Any railroad company organized under the laws of this State and doing business therein may change the time and place of its annual election for directors of such company by a vote of its stockholders, representing a majority of all the stock of the company, and by filing in the office of the Secretary of State a copy of such proceedings and vote certified by the secretary of the company under its corporate seal; but such change of place shall only be made to an incorporated village or city in the State of New York in which the executive office of such company shall be located; and the change of the time for holding such election shall only be made from the date fixed by its charter or by-laws to some day in the month of December preceding the date or time at which such election would otherwise have been held.

CHAP. 135, LAWS OF 1870.

AN ACT for the relief of corporations organized under general laws.

Directors authorized to make and file amended certificates to cure omission or informality; effect thereof.

SECTION 1. The directors of any corporation, organized under any general act for the formation of companies, in whose original certificate of incorporation any informality may exist, by reason of an omission of any matter required to be therein stated, are hereby authorized to make and file an amended certificate or certificates of incorporation, to conform to the general act under which said corporation may be organized; and, upon the making and filing of such amended certificate, the said corporation shall, for all purposes, be deemed and taken to be a corporation from the time of filing such original certificate.

Proviso.

§ 2. Nothing in this act contained shall in any manner affect any suit or proceeding, at the time of filing such amended certificate, pending against such corporation, or impair any rights already accrued.

CHAP. 489, LAWS OF 1886.**AN ACT to protect stockholders of corporations from the wrongdoings of directors in certain cases.**

When directors refuse or neglect to adopt by-laws to enable stockholders to hold annual election; acts, etc., of directors holding over, void.

SECTION 1. Whenever the directors named in the articles of association of any corporation organized under any general law of this State neglect or refuse during the first year of the corporate existence to adopt the by-law required by law to enable stockholders to hold the annual election for directors, and where by such neglect the said directors hold over and continue to be directors after the expiration of the first year of the corporate existence, all acts and proceedings of the directors when so holding over, done for and in the name of the company designed to charge upon the company any liability or obligation for the past services of any director so holding over, or for the past services of any officer, or attorney, or counsel appointed by them, and such liability or obligation shall be considered fraudulent and void.

Cases in which any stockholder may apply for stay of proceedings in action, etc.

§ 2. When directors of any such association or corporation are so holding over by their wrongful neglect of duty beyond the term for which they were appointed or elected, and an action has been brought against the company by the procurement of any of them to enforce any claim or obligation declared void by the preceding section, and such action is in the interest or for the benefit of any director or directors so holding over, and the company has by their connivance made default in such action, or consented to the validity of the claim or obligation so sought to be enforced against the company, any stockholder of the company may apply to the supreme court by affidavit, setting forth the facts, for a stay of the proceedings in such action, and on proof of the facts in such further manner and upon such notice as the court may direct, the supreme court may stay such proceedings or set aside and vacate the same, or grant such other relief as to the court may seem proper, and which will not injuriously affect an innocent party, who without notice of such wrong-doings and for a valuable consideration has acquired rights under such proceedings.

Election of directors; place of meeting, etc.

§ 3. When the directors of any association or corporation shall neglect or have neglected to adopt a by-law providing for the annual election of directors for sixty days after the first year of the corporate existence, the stockholders thereof may elect directors in the place of the directors holding over in the manner following: Stockholders entitled to vote for directors of such association or corporation as prescribed by section eight, chapter eighteen, title four, part first of the Revised Statutes, may meet after previous notice in writing given by them to all the stockholders, at least fifteen days before such meeting, of the time and place when and where such meeting will be held, for the purpose of electing directors; and it shall be the duty of any officer or other person having charge of the book or books of the association or corporation containing the names of the stockholders, to allow the same to be examined by any stockholder aforesaid, or his attorney, for the purpose of giving such notice. The place of such meeting shall be the principal office of such company, or in case it has no such office, at the place in this State where its principal business has been transacted, or if access to such office or place is denied, then at some other place to be designated in such notice

in the city, town or village where the principal office of such company is or was last located. At such meeting such stockholders shall elect two or more inspectors of election. If at such meeting a majority of the votes cast on stock entitled to be voted on for directors, as prescribed by said section eight, chapter eighteen, title four, part one of the Revised Statutes, shall be voted upon and cast for one ticket for directors, the persons so named and voted for as directors shall thereupon be the directors of such association or corporation until the next annual election and until others are elected and qualified in their stead and without reference to the time when they became stockholders. In the absence at such meeting of the books of the association or corporation, showing who were and are stockholders of the association or corporation, each stockholder, in order to be entitled to vote at such election, shall make or present a statement in writing to be signed and verified by him under oath before a notary public or other person authorized to administer oaths, setting forth the number of shares of the stock of such company standing in his name on its books and upon which he is entitled to vote as prescribed by the section of the Revised Statutes hereinbefore referred to, and which is then owned by him and standing on the books of the company in his name, and if known to him he shall also state the whole number of shares of stock issued by said association or corporation at the time when the election ought to have been held, and on filing such affidavit or verified statement with the inspectors, he shall be entitled to vote on such stock so appearing to be owned by him and standing on the books of the company in his name. The inspectors shall return and file such verified statements, together with a certificate of the results of the election, which shall be verified by them, with the clerk of the county in which such election is held, and thereupon the persons so elected shall be the directors of such association or corporation as aforesaid.

Stockholders may adopt by-laws.

§ 4. The stockholders aforesaid at the meeting authorized by the preceding section, in addition to electing directors as aforesaid, may adopt a by-law providing for the future annual meetings and election of directors, such by-laws shall be adopted in the same manner and by the same number of votes as is above prescribed for the election of directors, and shall have the same effect as if such by-law had been adopted by the directors of the company.

CHAP. 586, LAWS OF 1875.

AN ACT to define the powers and privileges of railroad corporations, and to repeal sections 3 and 4 of chapter 278 of the Laws of 1868, entitled "An act in relation to the Erie, New York Central, Hudson River and Harlem Railway Companies."

Postponement of annual election.

SECTION 1. When the time for holding the annual election for the directors of any railroad company is now fixed by any law, charter or by-law for a time within three months before the thirtieth day of September in any year, the directors of such company may by resolution, to be published at least thirty days before the time now established for such election, postpone such election to a time not more than two months after the thirtieth of September then ensuing, and thereafter the annual election of such company shall be held in each year on the day so designated, and the term of office of the directors of such company, in office when such change is made, shall be extended to the day thus fixed for the next election of directors, and the election of their successors.

Company may purchase lands and stock in other States for the purpose of securing a permanent supply of fuel.

§ 2. Any railroad company organized under the laws of this State may purchase, hold and convey lands, or any interests in lands, in any other State through which any part of its railroad is operated, or may purchase, hold and transfer

stock in any company organized in another State, owning lands as aforesaid, for the purpose of securing for such railroad in this State a permanent supply of fuel for its use.

CHAP. 223, LAWS OF 1884.

AN ACT to regulate the rights and duties of officers and directors of railroad corporations.

Officers and directors prohibited from selling or agreeing to sell stock, etc.

SECTION 1. No officer or director of any railroad corporation shall sell or agree to sell, or be directly or indirectly interested in the sale or agreement to sell, any shares of the stock of the corporation of which he is such officer or director, unless at the time of sale or agreement to sell, he is the actual owner of such shares.

Violation a misdemeanor; punishment.

§ 2. Any person violating any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment not less than six months, or by a fine not exceeding \$5,000, or by both such fine and imprisonment.

CHAP. 510, LAWS OF 1880.

AN ACT to regulate voting by stock and bondholders of railroad corporations.

Inspectors of election to be sworn.

SECTION 1. Before entering upon his duties each inspector of election at a meeting of the stockholders of any railroad company of this State for the purpose of electing directors thereof, or for any other purpose, shall take and subscribe before some officer authorized to administer oaths, an oath or affirmation that he will well, and truly do and perform the duties of the office of an inspector at such election, according to the best of his ability, which oath or affirmation shall be immediately filed in the office of the clerk of the county in which such election shall be held, together with a certificate of the result of the vote taken at such meeting or election.

Proxies; stockholders prohibited from selling vote or proxy; form of oath; false swearing; perjury; penalty.

§ 2. It shall not be lawful for any person to vote, or to issue a proxy to any other person or persons to vote at any meeting of stockholders or bondholders, or of stockholders and bondholders of any railroad corporation in this State for the election of directors, or for any other purpose, upon any stock or bonds where the certificates for said stock or the said bonds shall not be in the possession or under the control of the person on whose behalf the vote is to be given, and such last-mentioned person shall have ceased to retain the title to the stock represented by such certificates or the said bonds as owner in his own right or in his capacity of executor, administrator, trustee, committee, guardian, or otherwise, notwithstanding said stock or bonds may still stand in his name on the books of said corporation. No person having the right to vote upon stock or bonds shall sell his vote or issue a proxy to vote upon such stock or bonds to any person for any sum of money, or any thing of value whatever. Any person offering to vote upon stock or bonds registered or standing in his name shall, if required by any inspector of election, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that in voting at this election I have not, either directly or impliedly, received any promise or any sum of money, or any thing of value whatever, to influence the giving of my vote, or votes, at this election; and that I have not sold or otherwise disposed of my interest in or title to any shares or bonds in respect to which I offer to vote at this election, but that all such shares and bonds still remain in my possession or subject to my control." And any person offering to vote as agent, attorney or proxy for any other person shall, if required by inspector of election, take and subscribe the following oath (or affirmation): "I do solemnly swear (or affirm) that the title to the stock or bonds upon which I now offer to vote

is, to the best of my knowledge and belief, truly and in good faith vested in the persons in whose name they now stand, and that the said persons still retain control of the said shares and bonds, and that I have not, either directly or indirectly or impliedly, given any promise or any sum of money, or any thing of value whatever to induce the giving of the authority to vote upon such stock or bonds to me." The inspectors at any such election are authorized to administer the aforesaid oath or affirmation, and said oath and said proxies shall be filed in the office of said corporation. Any person who knowingly or willfully shall swear or affirm falsely in taking the oath or affirmation prescribed by this act shall be guilty of perjury. Any person violating any of the other provisions of this act shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by imprisonment not exceeding one year, or by a fine not exceeding \$5,000, or by both such fine and imprisonment.

CHAP. 582, LAWS OF 1880.

AN ACT to provide for excavating and tunneling and bridging for transportation purposes within villages and cities of this State.

When necessary to build road under ground or under water, company may enter upon and acquire title to lands, may construct masonry foundations, etc.; tunnel to be built so as to leave surface of ground firm and safe; when consent of owners must be obtained; in case owners do not consent general term of Supreme Court may appoint commissioners to determine whether road ought to be built; proviso as to connection with other roads in cities and villages.

SECTION 1. Whenever according to the route and plans adopted by any railroad company heretofore or hereafter formed under any special act of the Legislature of this State, or under chapter 140 of the Laws of 1850, entitled "An act to authorize the formation of railroad corporations, and to regulate the same," and all acts supplementary thereto or amendatory thereof for the building of its railroad, it shall be necessary or proper to build said road, or any part of the same, under ground, or to tunnel or bridge any river or waters, it shall be lawful for said company to enter upon and acquire title to and use such lands under water and uplands, except on or along any canals owned by the State, as shall be necessary for purposes herein mentioned; and they shall have the power to construct, erect and secure the necessary foundations and other structures which may be required for the operating of such road or connecting the same with another, and for maintaining the same, and purchase or acquire, in the manner now provided by law, such land, or rights or easements in land, along their said route upon, over, or beneath the surface thereof, as may be necessary for the building of their said road and making such connections, provided, however, that where said road runs underneath the ground at such depth as to enable said company to tunnel the same, such tunnel shall be so built and at all times kept in such condition as to make the surface of the ground above the same and in the neighborhood thereof, firm and safe for buildings and other erections thereon, and, in case surface excavations are made, as soon as can be done the surface shall be restored to its former condition, except so far as may be actually required for ventilation of the tunnel beneath the same, or access thereto; and provided, further, that whenever such road, or any part of the same, is intended to be built within the limits of any city or incorporated village of this State and to run by means of a tunnel underneath any of the streets, roads or public places thereof, the said company, before building the same underneath any of said streets, roads or public places, shall obtain the consent of the owners of one-half in value of the property bounded on the line, and the consent of the board of trustees of the village by resolution adopted at a regular meeting and entered on the records of said board, and of the proper authorities having control of said streets, roads or public places; or in case such consent of the owners of property bounded on the line cannot be obtained, the general term of the Supreme Court in the district in which such city or village is situated may, upon application, appoint three commissioners, who shall determine, after a hearing of all parties interested, whether such railroad ought to be allowed to be built under

neath said street, roads and public places, or any of them, and in what manner the same may be so built with the least damage to the surface and to the use of the surface by the public, and the determination by said commissioners, confirmed by the court, may be taken in lieu of the consent of said authorities and property owners. And provided further, that when any railroad company constructs, under this act, its railroad under any part or within the limits of any city or incorporated village of this State, subject to the provisions and limitations of this act, it shall be lawful for any other railroad company to connect its road therewith at such points or places as such company may elect, and all railroad companies constructing their road or roads under the provisions of this act shall be subject to all the provisions of an act entitled "An act to authorize the formation of railroad companies, and to regulate the same," passed April 2, 1850, and all acts supplementary thereto and amendatory thereof; and further, at such point or points, place or places, where such connections shall be made by connecting roads, the railroad companies, owning such roads shall build, at their joint expense, and for their joint use, such passenger and freight depots, and other accommodations for handling passengers and freight as may be required for the convenience of the public.

Consolidation with other companies.

§ 2. Any such railroad company, the greater part of whose road-bed according to its said route and plan is to be below the surface of the ground, and whose road does not exceed three miles in length, may at any time after its said route shall have been adopted, and the map thereof shall have been filed as required by law, merge and consolidate its capital stock, franchises and property with the capital stock, franchises and property of any other railroad company organized under the laws of this or any other State, in the manner now provided by law for the consolidation of railroad companies, whenever the railroads of said companies so to be consolidated may together form a continuous line of railroad; provided such consolidation shall not prevent all connecting railroads from having equal rights of transit for their passengers and freight through the tunnel upon the same equitable terms.

Liability for damages.

§ 3. All railroad companies constructing any tunnel under this act shall be liable to any person or corporation for all damages which may be sustained by reason of the construction of such tunnel. Whenever it shall be necessary, in constructing any railroad authorized by this act through any city or incorporated village, to alter the position or course of any sewers or water or gas pipes, the same shall be done at the expense of such railroad company or companies, under the direction of the department or corporation having charge thereof, so as not to interfere with said work. In all cases the use of the streets and docks and lands beneath which said railroad is constructed, and on the route thereof, and the right of way beneath the same for the purpose of said railroad, shall be considered and is hereby declared to be a public use consistent with and one of the uses for which its streets, avenues and docks are publicly held.

Act not to be construed to allow building of surface or elevated roads.

§ 4. Nothing in this act shall be construed to authorize the building in any city or village of this State of any railroad to run upon the surface of any street or of any elevated railroad not now provided for by law. Nothing in this act shall be construed to repeal or modify any part of chapter 380 of the Laws of 1878, entitled "An act relating to the public place or square known as Washington park in the city of New York," or to authorize the use or occupation by any company or companies of any public park or square in any city or village of this State for any of the purposes of this act, or to permit the construction of an open cut railroad in or through any street or public place in any such city or village, but every road constructed under the provisions of this act, in or through any such street or public place, shall be wholly underground, and constructed in a tunnel and not otherwise.

Repeal.

§ 5. All acts and parts of acts inconsistent with this act are hereby repealed.

(Chapter 148, Laws of 1881, refers to right of way over State lands in Richmond county.)

CHAP. 193, LAWS OF 1884.

AN ACT to enable steam railroad companies having a terminus at the harbor of New York incorporated under the laws of the State of New York to own boats and operate ferries.

Companies may operate ferries; restriction.

SECTION 1. Any steam railroad company, incorporated under the laws of this State, with a terminus in the harbor of New York, is hereby authorized and empowered to purchase or lease boats propelled by steam or otherwise, and operate the same as a ferry or otherwise, over the waters of the harbor of New York, to any point distant not more than ten miles from said terminus, but this act shall not be construed so as to affect the rights of the mayor, aldermen and commonalty of the cities of New York or Brooklyn.

CHAP. 125, LAWS OF 1858.

AN ACT in relation to sleeping cars on railroads.

Extra fare may be charged.

SECTION 1. Any patentee of a sleeping car, or his legal representative, may place his car upon any railroad of this State, with the assent of the company owning such road. Such patentee, or his legal representative, may charge for the use of said car, in all cases, to each passenger occupying the same, forty cents, which sum shall entitle such passenger to the use of a berth for 100 miles; and the said patentee, or his legal representative, may charge at and after the rate of three mills for every additional mile, but in no case shall the charge exceed eighty cents.

Other cars to be provided.

§ 2. The railroad companies permitting the use of such cars shall, nevertheless, keep sufficient first-class cars of other kinds for the convenient use and occupation of all passengers not wishing to use a sleeping car. And the tickets used for the use of the sleeping cars shall have plainly written or printed thereon, "sleeping car," and all persons using a sleeping car shall be furnished with such tickets.

Railroad company not to be interested.

§ 3. No railroad corporation shall be interested in the additional sum paid for the use of berths in sleeping cars, pursuant to the provisions of this act.

Railroad company to be liable for injuries.

§ 4. Nothing in this act contained shall be so construed as to exonerate any railroad company from the payment of damages for injuries in the same way and to the same extent they would be required to do by law if such cars were owned and provided by the company.

CHAP. 353, LAWS OF 1882.

AN ACT to create a Board of Railroad Commissioners, and to define and regulate its powers and duties.

Board of Railroad Commissioners to be appointed; how selected; vacancies, how filled; Governor may suspend Commissioner; clerk, his duties; marshal; Commissioners and clerk to take constitutional oath; who prohibited from holding office of Commissioner or clerk.

SECTION 1. There shall be in and for the State of New York a Board of Rail-

road Commissioners, to consist of three competent persons, who shall be appointed by the Governor, by and with the advice and consent of the Senate, one of whom shall hold office three years, one four years, and one five years. Such appointments shall be made within ten days after the 3d day of January, 1883. One of said persons shall be selected from the party which shall cast at the next general election the greatest number of votes for Governor of the State, and one of said persons shall be selected from the party which shall cast at the next general election the next greatest number of votes for Governor of the State, one of whom shall be experienced in railroad business, and one of said persons shall be selected upon the recommendation of the presidents and executive committees, or a majority of such, of the Chamber of Commerce of the State of New York, the New York Board of Trade and Transportation, and the National Anti-Monopoly League of New York, as said organization now exists, or any two of such organizations so represented, in case of disagreement. And after such appointment first made, the Governor, by and with the advice and consent of the Senate, shall in each year that a vacancy occurs fill the same by appointment for the term of five years. If any vacancy happens by resignation or otherwise, he shall in the same manner appoint a Commissioner for the residue of the term. Any Commissioner may be suspended from office by the Governor upon written charges preferred. The Governor shall report the fact of such suspension and the reasons therefor at the beginning of the next ensuing session of the Senate, and if a majority of such Senate shall approve the action of the Governor, such Commissioner shall be removed from office and his term of office shall expire. If the Senate shall not be in session at the time any such vacancy shall occur or exist, the Governor shall appoint a Commissioner to fill the vacancy, subject to approval of the Senate when convened. Said Board shall have a clerk or secretary who shall be appointed by the Board to serve during their pleasure, and whose duty shall be to keep a full and faithful record of the proceedings of said Board, and file and preserve at the general office of said Board all books, maps, documents and papers intrusted to his care, and prepare for service such papers and notices as may be required of him by the Commissioners, and perform such other duties as the Board may prescribe; and he shall have power, under direction of the Board, to issue subpoenas for witnesses, and to administer oaths in all cases pertaining to the duties of his office. Such Board shall also appoint a marshal, whose duty it shall be to attend at the offices, and at the meetings and examinations of said Board as required, and to serve notices and other papers, and perform such other duties as the Board shall prescribe. Said Commissioners and clerk shall take and subscribe the constitutional oath of office, and be sworn to the due and faithful performance of the duties of their respective offices, before entering upon the discharge of the same; and no person in the employ of, or holding any official relation to any railroad corporation, or owning stock or bonds in any railroad corporation, or who is in any manner pecuniarily interested in any firm or corporation having business relations with any railroad corporation, shall hold either of said offices, nor shall either of said Commissioners be engaged in any other business vocations.

The provisions of the foregoing section relative to clerk or secretary amended by chap. 441, Laws of 1884, § 1. See page 576 hereof.

Principal office; may establish branch office in city of New York and Buffalo; meetings; supplies for offices.

§ 2. The principal office of said Board shall be at the city of Albany, in rooms to be designated by the Capitol Commissioners, but the said Board may also establish a branch office at the city of New York, and one at the city of Buffalo, if in their judgment such branch offices, or either of them, will be necessary for the proper and convenient transaction of the business and duties of said Board; and said Board, or a quorum thereof, shall meet at least once a month during the year at their office in the city of Albany, and a record of their proceedings shall be published in their annual report to the Legislature. Said offices shall be supplied with necessary postage, stationery, office furniture and appliances, the expense thereof to be paid as other expenses authorized by this act.

as will disclose the actual working of the system of railroad transportation in its bearing upon the business and prosperity of the State, and such suggestions as to the general railroad policy of the State, or the amendment of its laws, or as to the condition, affairs or conduct of any of the railroad corporations as may seem to them appropriate. And the said Board of Railway Commissioners shall be charged with the duty to recommend and draft for the Legislature such bills as will, in their judgment, protect the people's interest in and upon the railways of this State. And it shall likewise be the duty of such Commissioners to take testimony upon, and have hearing for and against, any proposed change of the law relating to any railway or railways, or proposed change of the general law in relation to railways, if requested to do so by the Legislature, or by the committee on railroads of the Senate or Assembly, or by the Governor, or by any railroad company, or by any incorporated organization representing agricultural or commercial interests in the State, and such Commissioners shall thereupon report their conclusions, in writing, to the Legislature, or to such legislative committee, Governor, company, or such organization from whom the request to act emanated.

Board has power to prescribe form of report; notice, when blank form of returns to be furnished; tables and abstracts, what to be presented to Legislature in annual report; return to be preserved.

§ 10. The said Board of Railroad Commissioners shall have power to prescribe the form of the report required to be made by railroad corporations, under section 31 of chapter 140 of the Laws of 1850, entitled "An act to authorize the formation of railroad corporations, and to regulate the same," and may from time to time make such changes and additions in such form, giving to the corporation six months' notice, before the expiration of any fiscal year, of any such changes and additions which would require any alteration in the method or form of keeping their accounts, and the report by said "Act to authorize the formation of railroad corporations, and to regulate the same," of 1850, required to be made to the State Engineer and Surveyor, shall hereafter be made to such Board of Railroad Commissioners. Until such Board of Railroad Commissioners, however, shall change or alter the form of the report, the form now prescribed by law shall be followed by the said railroad corporations. And the said Board of Railroad Commissioners shall, on or before the fifteenth day of September in each year, furnish a blank form of such returns. When the return received from any corporation is defective, or believed to be erroneous, the Board shall notify the corporation to amend the same within thirty days. The said Board shall prepare such tables and abstracts of all the returns as they shall deem expedient, and which shall be contained in their annual report, and their annual report shall be transmitted to the Legislature on or before the second Monday in January, each year, and which annual report shall, among other things, contain an abstract of the proceedings of the Board during the preceding year; and also drafts of bills which have been submitted by the Board to the Legislature, and the reason therefor, and such suggestions as to the workings of the laws of the State, on the subject of railways and transportation, as to the said Board may seem proper and expedient. The originals of the returns as amended, subscribed and sworn to as now provided by law, or as hereafter to be provided by the said Board of Railway Commissioners, shall be preserved in the office of the Board.

Commissioners' edition of annual report; how distributed.

§ 11. There shall be printed, in addition to the regular number prescribed by law, as a public document of the State, 500 copies, to be bound in cloth, of the annual report of Railroad Commissioners, with the returns of the corporations for the use of the said commissioners, and to be distributed by them to such railroad corporations and other bodies of persons interested therein, in the discretion of the said Commissioners.

Salaries of clerical force; temporary employment of engineers, accountants and experts; passes; State to procure necessary books, etc.; reimbursement of Commissioners for expenses and disbursements, also for clerks and marshals; salaries and expenses to be audited by Comptroller; appropriation.

§ 12. The annual salary of each Commissioner shall be \$3,000, payable quarterly from the treasury of the State. The annual salary of the chief clerk or secretary

shall be \$3,000, and of the marshal, \$1,500, payable from the treasury of the State. The said Board shall also have power to employ such additional clerical force, not exceeding in number three persons, however, at salaries not to exceed in the aggregate the sum of \$3,000 per annum, as they may find necessary for the purpose of preparing the reports required by this act, and such other clerical duties as may be required of them by said Board. And such Board of Railroad Commissioners may have the power to employ engineers, accountants and other experts, whose services they may deem to be of temporary importance in the conducting of any investigation herein provided. In the discharge of the duties of their office they shall be transported over the several railroads in the State free of charge upon passes signed by the Secretary of State; they may employ and take with them experts or other agents whose services they may deem to be temporarily of importance, and who shall also be transported, while on such duty, free of charge upon passes signed by the Secretary of State; and they shall have procured for them by the State the necessary books, maps and statistics incidentally necessary for the discharge of the duties of their office; and they shall also have reimbursed to them quarterly the expenses and disbursements they may have incurred in traveling, and for the necessary travel expenses and disbursements of their clerks, marshal, and of experts; which expenses, however, shall not exceed in the aggregate \$500 a month; and a statement of such expenditures in detail shall accompany the annual report. The salaries and expenses authorized by this act shall be audited and allowed by the Comptroller, and paid in the first place by the State Treasurer upon the order of the Comptroller, out of any unappropriated funds from time to time remaining in the treasury. The sum of \$50,000, or so much thereof as may be necessary, is hereby appropriated to carry out the provisions of this act. (*Thus amended by chap. 388, Laws of 1883.*)

Limit of total annual expense to be borne by railroads; apportioned by Comptroller and State Assessors.

§ 13. The annual total expense of the said Board of Railroad Commissioners, including salaries for Commissioners' clerks and marshal, and additional clerical force, printing of additional copies of report, as provided by section eleven of this act, and all other expenses incident to said Board, excepting only rent of office, shall not exceed the sum of \$50,000; and such expenses shall be borne by the several corporations owning or operating railroads according to their means, to be apportioned by the Comptroller and State Assessors, who, on or before the first day of July in each year, shall assess upon each of said corporations its just proportion of said expenses, one-half in proportion to its net income for the year next preceding that in which the assessment is made, and one-half in proportion to the length of main track or tracks on road, and such assessment shall be collected in the manner provided by law for the collection of taxes upon corporations.

See chap. 441, Laws of 1884, at page 575 hereof.

Right of Commissioners to enter cars, offices and depots; not to solicit appointments, etc.; penalty for violation; not to accept passes or gratuities from railroad companies; applicable to employees; revealing information a misdemeanor.

§ 14. Said Railroad Commissioners, and either of them, shall have the right in their or his official capacity to enter and remain during business hours in the cars, offices and depots, and upon the railroads of any railroad company within this State, in the performance of official duties; but said Railroad Commissioners shall not, directly or indirectly, solicit or request from, or recommend to any railroad corporation, or any officer, attorney or agent thereof, the appointment of any person or persons to any place or position, nor shall any railroad corporation, its attorney or agent, offer any place, appointment or position or other consideration to such Commissioners, or either of them, nor to any clerk or employee of said Commissioners whatever; neither shall said Commissioners, nor their secretary, clerks, agents, employees or experts accept, receive or request any pass from any railroad in this State for themselves or for any other person, or any present, gift or gratuity of any kind from any railroad corporation, and the request or acceptance by them, or either of them, of any such place or position, pass, presents,

owners of all lands on which any such railroad may be built, abutting a highway, be first obtained; and provided further, that the consent in writing of the supervisor of the town in which any railroad proposed to be built under this act is located be also first obtained; and provided further, that this act shall not apply to any city or village; and provided further, that no such railroad shall be so located, graded, built or operated as to interfere with or obstruct the traveled part of any highway, or interfere with or obstruct the public use of any highway, or any highway intersecting the same.

CHAP. 317, LAWS OF 1881.

AN ACT to authorize a change, in certain cases, of the time for holding elections in railroad companies.

Companies may change time for holding elections.

SECTION 1. Any railroad company, the time for the annual election of directors in which is now fixed for any day in the month of June, may by a vote of a majority of the stock, either in person or by proxy, thereof to that effect, and filing in the office of the Secretary of State a copy of such proceedings, certified by the secretary of the company under its corporate seal, change the time for holding such annual election to any day in the month of April, provided, however, that the first election held under such resolution shall be held in the month of April which shall precede the time at which such election would otherwise have been held.

(Chapter 338, Laws of 1881, relates to elevated railroads.)

CHAP. 498, LAWS OF 1885.

AN ACT to authorize a change in certain cases of the time and place for holding elections of railroad companies.

Stockholders may change time for holding election of directors.

SECTION 1. Any railroad company organized under the laws of this State and doing business therein may change the time and place of its annual election for directors of such company by a vote of its stockholders, representing a majority of all the stock of the company, and by filing in the office of the Secretary of State a copy of such proceedings and vote certified by the secretary of the company under its corporate seal; but such change of place shall only be made to an incorporated village or city in the State of New York in which the executive office of such company shall be located; and the change of the time for holding such election shall only be made from the date fixed by its charter or by-laws to some day in the month of December preceding the date or time at which such election would otherwise have been held.

CHAP. 135, LAWS OF 1870.

AN ACT for the relief of corporations organized under general laws.

Directors authorized to make and file amended certificates to cure omission or informality; effect thereof.

SECTION 1. The directors of any corporation, organized under any general act for the formation of companies, in whose original certificate of incorporation any informality may exist, by reason of an omission of any matter required to be therein stated, are hereby authorized to make and file an amended certificate or certificates of incorporation, to conform to the general act under which said corporation may be organized; and, upon the making and filing of such amended certificate, the said corporation shall, for all purposes, be deemed and taken to be a corporation from the time of filing such original certificate.

Proviso.

§ 2. Nothing in this act contained shall in any manner affect any suit or proceeding, at the time of filing such amended certificate, pending against such corporation, or impair any rights already accrued.

CHAP. 489, LAWS OF 1885.**AN ACT to protect stockholders of corporations from the wrongdoings of directors in certain cases.**

When directors refuse or neglect to adopt by-laws to enable stockholders to hold annual election; acts, etc., of directors holding over, void.

SECTION 1. Whenever the directors named in the articles of association of any corporation organized under any general law of this State neglect or refuse during the first year of the corporate existence to adopt the by-law required by law to enable stockholders to hold the annual election for directors, and where by such neglect the said directors hold over and continue to be directors after the expiration of the first year of the corporate existence, all acts and proceedings of the directors when so holding over, done for and in the name of the company designed to charge upon the company any liability or obligation for the past services of any director so holding over, or for the past services of any officer, or attorney, or counsel appointed by them, and such liability or obligation shall be considered fraudulent and void.

Cases in which any stockholder may apply for stay of proceedings in action, etc.

§ 2. When directors of any such association or corporation are so holding over by their wrongful neglect of duty beyond the term for which they were appointed or elected, and an action has been brought against the company by the procurement of any of them to enforce any claim or obligation declared void by the preceding section, and such action is in the interest or for the benefit of any director or directors so holding over, and the company has by their connivance made default in such action, or consented to the validity of the claim or obligation so sought to be enforced against the company, any stockholder of the company may apply to the supreme court by affidavit, setting forth the facts, for a stay of the proceedings in such action, and on proof of the facts in such further manner and upon such notice as the court may direct, the supreme court may stay such proceedings or set aside and vacate the same, or grant such other relief as to the court may seem proper, and which will not injuriously affect an innocent party, who without notice of such wrongdoings and for a valuable consideration has acquired rights under such proceedings.

Election of directors; place of meeting, etc.

§ 3. When the directors of any association or corporation shall neglect or have neglected to adopt a by-law providing for the annual election of directors for sixty days after the first year of the corporate existence, the stockholders thereof may elect directors in the place of the directors holding over in the manner following: Stockholders entitled to vote for directors of such association or corporation as prescribed by section eight, chapter eighteen, title four, part first of the Revised Statutes, may meet after previous notice in writing given by them to all the stockholders, at least fifteen days before such meeting, of the time and place when and where such meeting will be held, for the purpose of electing directors; and it shall be the duty of any officer or other person having charge of the book or books of the association or corporation containing the names of the stockholders, to allow the same to be examined by any stockholder aforesaid, or his attorney, for the purpose of giving such notice. The place of such meeting shall be the principal office of such company, or in case it has no such office, at the place in this State where its principal business has been transacted, or if access to such office or place is denied, then at some other place to be designated in such notice

gifts or other gratuity shall work a forfeiture of the office of the said Commissioner or Commissioners, secretary, clerk or clerks, agent or agents, employee or employees, expert or experts, who shall be guilty thereof: and any violation of this section, or of any part thereof, shall also be deemed a misdemeanor and punishable as such, and any Commissioner, secretary, clerk, agent, employee or expert who shall secretly reveal any information gained by him from one railroad company to any other railroad company or person shall be guilty of a misdemeanor. (*Thus amended by chap. 888, Laws of 1888.*)

Repeal.

§ 15. All acts and parts of acts inconsistent with the foregoing provisions are hereby repealed.

CHAP. 421, LAWS OF 1884.

AN ACT in relation to certified copies of documents in the office of the Board of Railroad Commissioners, the fees to be charged therefor, and providing for a seal for the use of the Board.

Certified copies evidence.

SECTION 1. Copies of all official documents, filed or deposited, according to law, in the office of the Board of Railroad Commissioners, when certified by a member of the Board or by its Secretary, in the form of and pursuant to law, shall, in all cases, be evidence equally and in like manner as the originals.

The Board of Railroad Commissioners shall have an official seal, to be prepared by Secretary of State, to be used on all certified copies.

§ 2. The Board of Railroad Commissioners shall have an official seal to be prepared by the Secretary of State in accordance with the provisions of "An act to establish the original arms of the State of New York and to provide for the use thereof on the public seals," being chapter one hundred and ninety of the laws of eighteen hundred and eighty-two, and such seal shall thereafter be used upon all certified documents issued from said Board.

Fees.

§ 3. The Board of Railroad Commissioners shall hereafter charge and collect the following fees: For copies of papers and records not required to be certified or otherwise authenticated by said Board, ten cents for each folio of one hundred words; for certified copies of official documents filed in said office, fifteen cents for each folio of one hundred words, and one dollar for every certificate under seal affixed thereto; for each certified copy of the quarterly report made by railroads to the Board, fifty cents; for each certified copy of the annual report of the Board, one dollar and fifty cents.

Id.

§ 4. For certified copies of evidence and proceedings before the Board, fifteen cents for each folio of one hundred words.

Id.

§ 5. No fees shall be charged or collected for copies of papers, records or official documents furnished to public officers, for use in their official capacity or for annual reports in the ordinary course of distribution.

Fees to be paid quarterly, accompanied with a detailed statement, into the State treasury.

§ 6. All fees charged and collected by the Board belong to the people of this State, and shall be paid quarterly, accompanied with a detailed statement thereof, into the treasury of the State, to the credit of the general fund.

Repeal.

§ 7. All acts and parts of acts inconsistent with this act are hereby repealed.

CHAP. 441, LAWS OF 1884.

AN ACT to define the duties of certain officers of the Board of Railroad Commissioners, to regulate the power of issuing subpoenas, and to limit the number of clerks thereof.

Defining powers and duties of chief clerk or secretary; power to issue subpoena now vested in chairman of Board of Railroad Commissioners or two Commissioners; proceeding where subpoena is disobeyed; may administer oaths; salary, etc.; to take constitutional oath; who ineligible to hold such position.

SECTION 1. The chief clerk or secretary of the Board of Railroad Commissioners shall keep a full and faithful record of the proceedings of said Board; he shall be the custodian of the records thereof, and file and preserve at the general office of said Board all books, maps, documents and papers intrusted to his care, and shall be responsible to said Board for the same. Under the direction of said Board he shall be its executive officer, shall have general charge of its office, superintend its clerical business, conduct its correspondence, be the medium of communication of its decisions, recommendations, orders and requests, and shall perform such other business as the Board may prescribe. The power to issue subpoenas, heretofore vested in the chief clerk or secretary of said Board, shall hereafter be vested in the chairman of the Board or by two of the members thereof, and if a person who is duly subpoenaed does not obey such subpoena without reasonable cause, or if, when attending or brought before said Board, or a member thereof authorized to examine him, he shall refuse, without reasonable cause, to be examined; or to answer a legal and pertinent question; or to produce a book or paper which he is directed to bring by terms of the subpoena; or to subscribe his deposition after it has been correctly reduced to writing, the Board may take such proceedings as are provided by the Code of Civil Procedure. The secretary shall have power to administer oaths in all cases pertaining to the duties of his office. He shall receive as salary \$3,000 per annum, payable monthly, and shall hold his office at the pleasure of the Board. He shall take the constitutional oath of office and be sworn to the due and faithful performance of the duties of his office, and no person in the employ of, or holding any official relation to any railroad corporation, or owning stock or bonds in any railroad corporation, or who is in any manner pecuniarily interested in any firm or corporation having business relations with any railroad corporation, shall hold such office.

Accountant, appointment of; salary; duties; to take constitutional oath.

§ 2. The Board of Railroad Commissioners may appoint an accountant at a salary not exceeding \$3,000 per annum, payable monthly, who shall be thoroughly skilled in railroad accounting, whose duty it shall be to make, under the directions of the said Board, examinations of the books and accounts of railroad companies and other corporations under the provisions of chapter 853, Laws of 1882. Under the direction of the Board he shall supervise the quarterly and annual reports made by the railroad companies to the Board, collect and compile railroad statistics and perform such other duties as the Board may prescribe. Said accountant shall take the constitutional oath of office and be sworn to the due and faithful performance of the duties of his office. He shall hold his office at the pleasure of the Board.

Inspector, appointment of; salary; duties; to take constitutional oath.

§ 3. The Board of Railroad Commissioners may appoint an inspector, at a salary not exceeding \$3,000 per annum, payable monthly, who shall be a civil engineer and one skilled in railroad affairs, whose duty it shall be to make such inspections of railroads and other matters relating thereto, as directed by the Board and report to it. Said inspector shall take the constitutional oath of office and be sworn to the due and faithful performance of the duties of his office. He shall hold his office at the pleasure of the Board.

Clerical force.

§ 4. The Board of Railroad Commissioners may appoint such additional clerical force as may be necessary for the transaction of business of the Board, provided, however, that the number of such clerks shall not exceed six, and the aggregate salaries thereof shall not exceed \$6,000.

Comptroller to audit and allow salaries provided for in sections 1, 2, 3 and 4.

§ 5. The sums of money provided to be paid as salaries in sections 1, 2, 3 and 4 of this act shall be audited and allowed by the Comptroller and paid in the first place by the State Treasurer, upon the warrant of the Comptroller, out of any unappropriated funds remaining in the treasury, and the Comptroller shall reimburse the Treasurer in the sums advanced from the annual appropriation made in conformity with the provisions of chapter 353, Laws of 1882, for the maintenance of the Board of Railroad Commissioners.

Repeal.

§ 6. All acts or parts of acts inconsistent with this act are hereby repealed.

CHAP. 373, LAWS OF 1883.**AN ACT in relation to receivers of corporations.****Application for appointment of receiver, where made.**

SECTION 1. Every application hereafter made for the appointment of a receiver of a corporation shall be made at a special term of the court held in and for the judicial district in which the principal business office of the corporation was located at the commencement of the action wherein such receiver is appointed, or in and for a county adjoining such district; and any order appointing a receiver, otherwise made, shall be void.

Compensation.

§ 2. Every receiver shall be allowed to receive as compensation for his services as such receiver, five per cent for the first \$100,000 actually received and paid out, and two and one-half per cent on all sums received and paid out in excess of the said \$100,000.

Order appointing receiver to designate place of deposit.

§ 3. All orders appointing receivers of corporations shall designate therein one or more places of deposit, wherein all funds of the corporation not needed for immediate disbursement shall be deposited, and no deposits or investments of such trust funds shall be made elsewhere, except upon the order of the court upon due notice given to the Attorney-General.

Duties of receiver.

§ 4. It shall be the duty of every receiver of an insurance, banking or railroad corporation, or trust company, to present every six months to the special term of the supreme court, held in the judicial district wherein the place of trial or venue of the action or special proceeding in which he was appointed may then be, on the first day of its first sitting, after the expiration of such six months, and to file a copy of the same, if a receiver of a bank or trust company, with the bank superintendent; if a receiver of an insurance company, with the superintendent of insurance, and in each case with the attorney-general, an account exhibiting in detail the receipts of his trust, and the expenses paid and incurred therein during the preceding six months; and it shall be unlawful for any receiver of the character specified in this section to pay to any attorney or counsel any costs, fees or allowances until the amounts thereof shall have been stated to the special term in this manner, as expenses incurred, and shall have been approved by that court by an order of the court duly entered; and any such order shall be the subject of review by the general term and the court of appeals on an appeal taken therefrom by any party aggrieved thereby. Of the intention to present such account,

as aforesaid, the attorney-general shall be given eight days' notice in writing, and the attorney-general shall examine the books and accounts of such receiver at least once every twelve months. (*Thus amended by Chap. 40, Laws of 1885.*)

Intervenor to pay his own legal expenses; no allowance to be made for costs to attorney.

§ 5. In case of the intervention of any policy-holder or depositor, by permission of the court, such policy-holder or depositor shall defray the legal expenses thereof, and no allowance shall be made for costs or fees to any attorney of such policy-holder or depositor.

Receiver to close up affairs within one year.

§ 6. The affairs of every insolvent corporation now in the hands of any receiver shall be fully closed up by the receiver thereof within one year from the passage of this act, unless the court, upon application by said receiver, and upon due notice to the Attorney-General, shall give additional time for that purpose.

Attorney-General may apply to have receiver removed; appeal.

§ 7. The Attorney-General may, at any time he deems that the interests of the stockholders, creditors, policy-holders, depositors or other beneficiaries interested in the proper and speedy distribution of the assets of any insolvent corporation will be subserved thereby, make a motion in the Supreme Court at a special term thereof, in any judicial district, for an order removing the receiver of any insolvent corporation and appointing a receiver thereof in his stead, or to compel him to account, or for such other and additional order or orders as to him may seem proper to facilitate the closing up of the affairs of such receivership, and any appeal from any order made upon any motion under this section shall be to the general term of said court of the department in which such motion is made.

Copies of all papers to be served on Attorney-General.

§ 8. A copy of all motions and all motion papers, and a copy of any other application to the court, together with a copy of the order or judgment to be proposed thereon to the court, in every action or proceeding now pending for the dissolution of a corporation or a distribution of its assets, or which shall hereafter be commenced for such purpose, shall, in all cases, be served on the Attorney-General, in the same manner as provided by law for the service of papers on attorneys who have appeared in actions, whether the applications but for this law would be *ex parte* or upon notice, and no order or judgment granted shall vary in any material respect from the relief specified in such copy or order, unless the Attorney-General shall appear on the return day and have been heard in relation thereto; and any order or judgment granted in any action or proceeding aforesaid, without such service of such papers upon the Attorney-General, shall be void, and no receiver of any such corporation shall pay to any person any money directed to be paid by any order or judgment made in any such action or proceeding, until the expiration of eight days after a certified copy of such order or judgment shall have been served as aforesaid upon the Attorney-General.

When applications under this act to be made; venue changed.

§ 9. All applications to the court contemplated by this act shall be made in the judicial district where the principal office of the insolvent corporation was located; and the venue of all actions or proceedings now pending, not in the judicial district where the principal office of the insolvent corporation was located, are hereby changed and transferred to the county and judicial district where such principal office was located.

Preference on calendar.

§ 10. All actions or other legal proceedings and appeals therefrom or therein brought by or against a receiver of any of the insolvent corporations referred to in this act, shall have a preference upon the calendars of all courts next in order to actions or proceedings brought by the people of the State of New York.

Repeal.

§ 11. All acts or parts of acts inconsistent herewith are hereby repealed.

CHAP. 285, LAWS OF 1884.

AN ACT to provide for the transfer of securities and property by bankrupt corporations to the receivers of such corporations, and for the transfer by the Superintendent of the Insurance Department to receivers of insolvent life insurance and annuity companies of funds and securities deposited with such Superintendent by such companies for the security of policy-holders.

Where receivers have or shall be appointed for any corporation other than insurance companies on application by Attorney-General, property to vest in receiver; proviso.

SECTION 1. In all cases where receivers have been or shall be appointed for any corporation of this State other than an insurance company, on application by the Attorney-General, all property, real and personal, and all securities of every kind and nature belonging to such corporation, no matter where located or by whom held, shall be transferred to, vested in and held by such receiver; provided, however, that such transfer shall only be made when directed by an order of the Supreme Court, due notice of the application for such order having been made on the Attorney-General, and the custodian of the funds, securities or property.

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As to the general subject of taxation of real estate, etc., see chapter 13, part 1 of Revised Statutes. Also, Chap. 411, Laws of 1885.

CHAP. 361, LAWS OF 1881.

AN ACT to amend chapter 542 of the Laws of 1880, entitled "An act to provide for raising taxes for the use of the State upon certain corporations, joint-stock companies and associations."

Certain officers of company to make annual report to Comptroller on or before fifteenth of November; where dividend not declared, stock to be estimated and declared; certificate to be sent Comptroller; appeals.

SECTION 1. Hereafter it shall be the duty of the president or treasurer of every association, corporation or joint-stock company liable to be taxed on its corporate franchise or business, as provided in section 8 of this act, to make report, in writing, to the Comptroller annually, on or before the fifteenth day of November, stating specifically the amount of capital paid in, the date, amount and rate per centum of each and every dividend declared by their respective corporations, joint-stock companies or associations during the year ending with the first day of said month. In all cases where any such corporation, joint-stock company or association shall fail to make or declare any dividend upon either its common or preferred stock during the year ending as aforesaid, or in case the dividend or dividends made or declared upon either its common or preferred stock during the year ending as aforesaid shall amount to less than six per centum upon the par value of the said common or preferred stock, the treasurer and secretary thereof, after being duly sworn or affirmed to do and perform the same with fidelity, according to the best of their knowledge and belief, shall, between the first and fifteenth days of November in each year, in which no dividend has been made or declared as aforesaid, or in which the dividend or dividends made or declared upon either its common or preferred stock amounted to less than six per centum upon the par value of said common or preferred stock, estimate and appraise the capital stock of such company upon which no dividend has been made or declared, or upon the par value of which the dividend or dividends made or declared amounted to less than six per centum, at its actual value in cash — not less, however, than the average price which said stock sold for during said year, and when the same shall have been so truly estimated and appraised, they shall forthwith

forward to the Comptroller a certificate thereof, accompanied by a copy of their said oath or affirmation, by them signed, and attested by the magistrate or other person qualified to administer the same; provided, that if the Comptroller is not satisfied with the valuation so made and returned, he is hereby authorized and empowered to make a valuation thereof, and to settle an account upon the valuation so made by him for the taxes, penalties and interest due the State thereon; and any association, corporation or joint-stock company dissatisfied with the account so settled may within ten days appeal therefrom to a board consisting of the Secretary of State, Attorney-General and State Treasurer, which board, on such appeal, shall affirm or correct the account so settled by the Comptroller, and the decision of said board shall be final; but such appeal shall not stay proceedings unless the full amount of the taxes, penalties and interest as due on said account, as settled by the Comptroller, be deposited with the State Treasurer.

Comptroller to add ten per cent in case of failure to make report; proviso.

§ 2. If the said officers of any such corporation, joint-stock company or association shall neglect or refuse to furnish the Comptroller, on or before the fifteenth day of November of each and every year, with the report aforesaid, or the certificate of appraisement and oath or affirmation, as the case may be, as required by the first section of this act, or to pay the tax imposed on such corporation, company or association within fifteen days after the first of January, as provided in the fourth section of this act, it shall be the duty of the Comptroller of the State to add ten per centum to the tax of said corporation, company or association for each and every year for which such report or certificate of appraisement and oath or affirmation were not so furnished, or for which such tax shall not have been paid, which percentage shall be assessed and collected with the said tax in the usual manner of assessing and collecting such taxes; provided, that if said officers of any such corporation, joint-stock company or association shall intentionally fail to comply with the provisions of the first or fourth section of this act for one year, the Comptroller shall report the fact to the Governor, who, if he shall be made satisfied that such failure was intentional, shall thereupon direct the Attorney-General to take proceedings in the name of the people of this State, to declare the charter or privileges of said corporation, joint-stock company or association forfeited and at an end; and for such intentional failure duly found, the charter and privileges of every such corporation, company or association shall cease, end and be determined.

Annual tax; how computed.

§ 3. Every corporation, joint-stock company or association whatever, now or hereafter incorporated or organized under any law of this State, or now or hereafter incorporated or organized by or under the laws of any other State or country and doing business in this State, except savings banks and institutions for savings, life insurance companies, banks and foreign insurance companies, and manufacturing or mining corporations carrying on manufacture of mining ores within this State, which exception shall not be taken to include gas companies or trust companies, shall be subject to and pay a tax as a tax upon its corporate franchise or business into the treasury of the State annually, to be computed as follows: If the dividend or dividends made or declared by such corporation, joint-stock company or association, during any year ending with the first day of November, amount to six or more than six per centum upon the par value of its capital stock, then the tax to be at the rate of one-quarter mill upon the capital stock for each one per centum of dividends so made or declared; or if no dividend be made or declared, or if the dividend or dividends made or declared do not amount to six per centum upon the par value of said capital stock, then the tax to be at the rate of one and one-half mills upon each dollar of the valuation of the said capital stock made in accordance with the provisions of the first section of this act; and in case any such corporation, joint-stock company or association shall have more than one kind of capital stock—as, for instance, common and preferred stock, and upon one of said stocks a dividend or dividends amounting to six or more than six per centum upon the par value thereof has been made or declared, and upon the other no dividend has been made or declared, or the dividend or dividends made or declared thereon amount to less than six per centum upon the par value thereof, then the tax shall be at the rate

of one-quarter mill for each one per centum of dividend made or declared upon the capital stock upon the par value of which the dividend or dividends made or declared amount to six or more than six per centum, and in addition thereto tax shall be charged at the rate of one and one-half mills upon each dollar of valuation made also in accordance with the provisions of this act, of the capital stock upon which no dividend was made or declared, or upon the par value of which the dividend or dividends made or declared did not amount to six per centum. *(Thus amended by chap. 359, Laws of 1885.)*

When payable.

§ 4. It shall be the duty of the treasurer or other officer having charge of any corporation, joint-stock company or association, upon which a tax is imposed by either of the preceding sections of this act, to transmit the amount of said tax to the treasury of the State within fifteen days after the first day of January in each and every year.

§ 5 relates only to insurance companies.

Tax on railroad, steamboat and other companies ; rate of tax.

§ 6. In addition to the taxes above provided for, every corporation formed for railroad, canal, steamboat, ferry, express, navigation or transportation purposes, and every elevated railway company, and every other corporation, joint-stock company or association now or hereafter incorporated or organized by or under any law of this State, or now or hereafter incorporated or organized by or under the laws of any other State or country and doing business in this State, and owning, operating or leasing to or from another corporation, joint-stock company or association, any railroad, canal, steamboat, ferry, express, navigation, pipe line or transportation route or line or elevated railway, or other device for the transportation of freight or passengers, or in any way engaged in the business of transporting freights or passengers, and every telegraph company or telephone company incorporated under the laws of this or any other State, and doing business in this State, and every express company or association, palace car or sleeping car company or association incorporated or unincorporated, doing business in this State, shall pay to the State Treasurer for the use of the State, as a tax upon its corporate franchise or business in this State, a tax at the rate of five-tenths of one per centum upon the gross earnings in this State of said corporation or company or association, for tolls, transportation, telegraph, telephone or express business transacted in this State.

When payable ; report of gross earnings ; report for six months ending June 30, 1881 ; ten per cent to be added in case of neglect.

§ 7. The tax imposed under section 6 of this act shall, after the 1st day of August, 1881, be paid annually on the first day of August of each year. It shall be the duty of the president, secretary or other proper officer of the corporations, joint-stock companies or associations referred to in section 6 of this act to transmit to the Comptroller, on the first day of August in each year, a statement under oath or affirmation of the amount of the gross earnings of said associations, corporations or joint-stock companies derived from all sources during the year ending with the preceding thirtieth day of June, together with the amount of tax imposed thereon, by section 6. And it shall also be the duty of the president, secretary or other proper officer of the corporations, joint-stock companies or associations referred to in section 6 of this act to transmit to the Comptroller on the 1st day of August, 1881, a statement, under oath or affirmation, of the amount of the gross earnings of the said associations, corporations or joint-stock companies derived from all sources during the six months ending with the 30th day of June, 1881, together with the tax imposed thereon by section 6 of this act. And if any such corporation, joint-stock company or association shall neglect or refuse for a period of thirty days after any tax imposed by section 6 or 7 of this act becomes due, to make returns or to pay the same, the amount thereof, with the addition of ten per centum thereto, shall be collected for the use of the State as other taxes are recoverable by law from such corporation, joint-stock company or association.

Exempt from taxation for State purposes; proviso.

§ 8. The corporations, joint-stock companies and associations mentioned in this act as taxable shall hereafter be exempt from assessment and taxation for State purposes, except upon their real estate and as herein provided; but they shall in all other respects be liable to assessment and taxation as heretofore.

Tax, application of.

§ 9. The taxes imposed by this act, and the revenue derived therefrom, shall be applicable to the payment of the ordinary and current expenses of the State, and if any corporation, joint-stock company, person, partnership or association shall neglect or refuse to pay any tax by this act required to be paid, the same may be sued for in the name of the people of the State, and recovered in any court of competent jurisdiction, in an action to be brought by the Attorney-General at the instance of the Comptroller.

Saving section.

§ 10. All obligations, liabilities and taxes heretofore incurred or imposed under said act, chapter 542 of Laws of 1880, are saved and shall be enforced as if the said act had not been hereby amended.

Amount of capital stock employed in this State to be basis of tax; if dissatisfied, comptroller may fix them out.

§ 11. The amount of capital stock which shall be the basis for tax under the provisions of section three of this act, in the case of every corporation, joint-stock company and association liable to taxation thereunder, shall be the amount of capital stock employed within this State. In making to the comptroller the report in writing or certificate of estimate and appraisal of the capital stock of such corporation, joint-stock company or association provided for by the first section of this act, it shall be the duty of the president or treasurer thereof, as the case may be, to state specifically the amount of capital stock employed within this State, of such corporation, joint-stock company or association. Whenever the comptroller is dissatisfied with such report or certificate of estimate and appraisal, as the case may be, of any corporation, joint-stock company or association whose capital is only partially employed within this State, he is authorized and empowered to ascertain, fix and determine the amount of capital employed within this State, and to settle an account for the taxes and penalties due the State thereon. (*Added by chap. 501, Laws of 1885.*)

In case of failure to make report, comptroller may examine books and records, and make report.

§ 12. Whenever any corporation, joint-stock company or association liable to make reports or certificates of estimate and appraisal to the comptroller, under any of the provisions of this act, shall neglect or refuse to make such report or reports within the time prescribed in this act, or shall make such report or certificate as shall be unsatisfactory to the comptroller, the comptroller is authorized to examine, or cause to be examined, the books and records of any such corporation, joint-stock company or association, and to fix and determine the amount of tax and penalty due in pursuance of the provisions of this act, either from the said books and records, or from any other data in his possession which shall be satisfactory to him, and to settle an account for said tax and penalty, together with the expenses of such examination, against said corporation, joint-stock company or association. (*Added by chap. 501, Laws of 1885.*)

Comptroller may issue subpoenas and examine witnesses; penalty for failure to obey subpoena.

§ 13. Whenever the comptroller shall deem it necessary or important to examine any person as a witness upon any subject or matter relating to the amount of capital stock of such corporation, or to use, examine or inspect any book, account, voucher or document in possession of any officer of such corporation, or other person, or under his control, relating to such capital stock and tax, he shall have the power to issue a subpoena in proper form, commanding such person or officer

to appear before him or some person designated as commissioner by him by an appointment in writing, filed in the office of such comptroller, at a time and at the place where the principal office of such corporation is situated within this State in such subpoena specified, to be examined as a witness, and such subpoena may contain a clause requiring such person or officer to produce on such examination all books, papers and documents in his possession or under his control, relating to the capital stock of such corporation and the amount thereof employed within this State. Such subpoena shall be served upon the person named by showing him the original subpoena and delivering to and leaving with him at the same time a copy thereof. The comptroller or the commissioner so designated by him as aforesaid may administer oaths to such persons as he may desire to examine, so brought before him by subpoena or otherwise, and examine them on oath in relation to any matter which may in any wise be material in determining the amount of the tax to be paid by any such corporation, joint-stock company or association as aforesaid. Whenever any person duly subpoenaed to appear and give evidence as aforesaid, or to produce any books and papers as hereinbefore provided, shall neglect or refuse to appear or to produce such books and papers according to the exigency of such subpoena, or shall refuse to testify before said comptroller or the commissioner so designated by him, or to answer any proper and pertinent question, he shall be deemed in contempt, and thereupon any justice of the supreme court of the judicial district within which the principal office of such corporation within this State is situated shall, upon the motion of the comptroller, based upon affidavit showing the commission of the offense, either, first, make an order requiring the accused to show cause before him, at a time and place specified therein, why the accused should not be punished for the alleged offense; or, second, issue a warrant of attachment directed to the sheriff of a particular county, or generally directed to the sheriff of any county where the man may be found, commanding him to bring him before said justice either forthwith or at a time and place therein specified to answer for the alleged offense. On the return of said attachment and the production of the body of the defendant therein the said justice shall have jurisdiction in the matter, and the person charged may purge himself of the contempt in the same way, and the same proceedings shall be had, and the same penalties may be imposed and the same punishments inflicted as in the case of a witness subpoenaed to appear and give evidence as is prescribed in title 3, chapter 17 of the Code of Civil Procedure, in proceedings to punish a contempt of court other than a criminal contempt. (*Added by chap. 501, Laws of 1885.*)

Comptroller to settle and adjust all accounts against corporations, for taxes and penalties since May 12, 1882; proviso as to payments made before August 1, 1885.

§ 14. The comptroller is hereby authorized and directed, upon application to him made by any corporation, joint-stock company or association, to make, settle and adjust all accounts against such corporation, joint-stock company or association, for all taxes and penalties arising under the third section of this act since the 12th day of May, A. D. 1882, by taking as a basis for taxation the capital employed within the State by such corporation, joint-stock company or association. Provided, however, that such corporation, joint-stock company or association shall not be entitled to the benefit of a settlement upon such basis unless it shall have secured such adjustment and paid into the treasury the full amount of the taxes so settled, before the 1st day of August, 1885, nor shall this section apply to the case of any tax for which suit shall have been heretofore brought by the attorney-general, in which suit the trial has been commenced, or in which judgment shall have been entered heretofore for the people for the amount of said tax. Any corporation, joint-stock company or association whose capital has heretofore been only partially employed within this State, and which is now liable for taxes arising under the third section of this act since the 12th day of May, A. D. 1882, and which are still due and unpaid, may, at any time prior to the 1st day of August, 1885, pay to the State treasurer, for the use of the State, in full discharge of the same, such sum of money as shall be fixed by the comptroller as the tax due for the said period by the said corporation, joint-stock company or association, upon the basis of the capital employed within the State. Provided, that this section shall

not apply to the case of any tax for which suit may have heretofore been brought by the attorney-general, and for which judgment shall have been entered therein, or if in such suit trial has been commenced. (*Added by chap. 501, Laws of 1885.*)

Interest.

§ 15. All accounts hereafter settled by the comptroller agreeably to the provisions of this act shall bear interest from a date thirty days after the sending of notice of settlement hereinafter provided for until full payment thereof shall be made. (*Added by chap. 501, Laws of 1885.*)

Comptroller to give notice before making settlement of taxes.

§ 16. It shall be the duty of the comptroller after making with any partnership, corporation, joint-stock company or association liable to taxation under any of the provisions of this act, the settlement of such taxes, to forthwith send notice hereof, in writing, to such person, partnership, corporation, joint-stock company or association, which notice may be sent by mail to the post-office address of such corporation, joint-stock company or association. (*Added by chap. 501, Laws of 1885.*)

Provisions in relation to review of comptroller; determination by writ of certiorari.

§ 17. No writ of certiorari to review the determination and settlement of the comptroller as to the amount of capital used within the State by any corporation, joint-stock company or association, and as to the tax and penalty to be paid thereon, shall be granted, except application therefor be made within thirty days after service upon such corporation, joint-stock company or association by the comptroller of notice of such settlement. Nor shall any such writ be granted except the papers upon which motion therefor is to be made, including notice of motion, shall have been served upon the comptroller at least eight days before such motion, nor unless the corporation, joint-stock company or association applying for such writ shall, before making such motion, have deposited with the State treasurer the full amount of taxes, penalties and charges so settled and adjusted by the comptroller, and file with him an undertaking in such amount and with such sufficient sureties as shall be approved by one of the justices of the supreme court of this State, to the effect that if said writ be vacated and the determination of the comptroller sustained, the applicant for the writ will make payment of all costs and charges which may accrue against such applicant in the prosecution of such writ, including costs on all appeals. (*Added by chap. 501, Laws of 1885.*)

Comptroller may issue warrant for collection after thirty days.

§ 18. After the expiration of thirty days from the service by the Comptroller of notice of the settlement aforesaid, if no proceedings shall have been taken to review the same, as provided by this act, or if the deposit with the State treasurer of the amount of the said settlement, together with the undertaking, as provided for by this act, shall not then have been made, it shall be lawful for the comptroller to issue his warrant or warrants under his hand and seal of office directed to the sheriff of any county in this State, commanding him to levy upon and sell the goods and chattels, lands and tenements of the said corporation, joint-stock company or association found within the said county, for the payment of the amount of said settlement, together with interest thereon and costs of executing such warrant, and to return the said warrant to the comptroller, and pay to the State treasurer the money which shall be collected by virtue thereof, by a certain time therein to be specified, not less than sixty days from the date of such warrant. Such warrant shall be a lien upon and shall bind the personal estate of the person, partnership, corporation, joint-stock company or association against whom it shall be issued, from the time an actual levy shall be made by virtue thereof, and the sheriff to whom such warrant shall be directed shall proceed upon the same in all respects with the like effect and in the same manner as prescribed by law in respect to executions issued against property upon judgments rendered by a court of record, and shall be entitled to the same fees and costs for his services in executing the same, to be collected in the same manner. (*Added by chap. 501, Laws of 1885.*)

CHAP. 675, LAWS OF 1881.

AN ACT to facilitate the payment of school taxes by railroad companies.

Duty of school collector to deliver to county treasurer certain statement; duty of county treasurer in the premises.

SECTION 1. It shall be the duty of the school collector in each school district in this State, except in the counties of New York, Kings and Cattaraugus, within five days after the receipt by such collector of any and every tax or assessment-roll of his district, to prepare and deliver to the county treasurer of the county in which such district, or the greater part thereof, is situated, a statement showing the name of each railroad company appearing in said roll, the assessment against each of said companies for real and personal property respectively, and the tax against each of said companies. It shall thereupon be the duty of such county treasurer, immediately after the receipt by him of such statement from such school collector, to notify the ticket agent of any such railroad company assessed for taxes at the station nearest to the office of such county treasurer, personally or by mail, of the fact that such statement has been filed with him by such collector, at the same time specifying the amount of tax to be paid by such railroad company. (*Thus amended, Laws of 1885, chap. 533.*)

Time in which tax may be paid with one per cent fees.

§ 2. Any railroad company hereafter organized, or which may hereafter be organized, under the laws of this State, may, within thirty days after the receipt of such statement by such county treasurer, pay the amount of tax so levied or assessed against it in such district and in such statement mentioned and contained, with one per centum fees thereon, to such county treasurer, who is hereby authorized and directed to receive such amount and to give proper receipt therefor.

If tax not paid within thirty days, duty of collector to collect; limitation.

§ 3. In case any railroad company shall fail to pay such tax within said thirty days, it shall be the duty of such county treasurer to notify the collector of the school district in which such delinquent railroad company is assessed, of its failure to pay said tax, and upon receipt of such notice it shall be the duty of such collector to collect such unpaid tax in the manner now provided by law, together with five per centum fees thereon; but no school collector shall collect by distress and sale any tax levied or assessed in his district upon the property of any railroad company, until the receipt by him of such notice from the county treasurer.

Tax to be placed to credit of school district; paid to collector on demand; fees to go to collector on demand.

§ 4. The several amounts of tax received by any county treasurer in this State, under the provisions of this act, of and from railroad companies shall be by such county treasurer placed to the credit of the school district for or on account of which the same was levied or assessed, and on demand paid over to the school collector thereof, and the one per centum fees received therewith shall be placed to the credit of, and on demand paid to, the school collector of such school district.

Tax may be paid to collector direct.

§ 5. Nothing in this act contained shall be construed to hinder, prevent or prohibit any railroad company from paying its school tax to the school collector direct, as now provided by law.

CHAP. 110, LAWS OF 1858.

AN ACT to repeal parts of an act to amend chapter 13, part 1, of the Revised Statutes, entitled of the assessment and collection of taxes, and chapter 176 of the Laws of 1851, passed April 15, 1857.

Repeal.

SECTION 1. Sections 1 and 6 of chapter 536 of the Laws of 1857, are repealed, and that part of section 2 of the same chapter, which requires special notice to be given in case an assessment-roll includes property belonging to a railroad corporation, is also repealed.

CHAP. 694, LAWS OF 1867.

AN ACT in relation to the valuation of the property of railroad companies in school districts, for the purpose of taxation.

Duty of town assessors.

SECTION 1. It shall be the duty of the town assessors, within fifteen days after the completion of their annual assessment-list, to apportion the valuation of the property of each and every railroad, telegraph, telephone and pipe-line company as appears on such assessment-list, among the several school districts in their town, in which any portion of said property is situated, giving to each of said districts their proper portion, according to the proportion that the value of said property in each of such districts bears to the value of the whole thereof in said town. (*Thus amended by chap. 414, Laws of 1884.*)

Apportionment.

§ 2. Such apportionment shall be in writing, and shall be signed by said assessors, or a majority of them, and shall set forth the number of each district and the amount of the valuation of the property of each railroad, telegraph, telephone and pipe-line companies apportioned to each of said districts; and such apportionment shall be filed with the town clerk, by said assessors, or one of them, within five days after being made; and the amount so apportioned to each district shall be the valuation of the property of each of said companies, on which all taxes against said companies in and for said districts shall be levied and assessed, until the next annual assessment and apportionment. (*Thus amended by chap. 414, Laws of 1884.*)

When assessors neglect to make apportionment

§ 3. In case the assessors shall neglect to make such apportionment, it shall be the duty of the supervisor of the town, on the application of the trustees or board of education of any district, or of any railroad, telegraph, telephone and pipe-line company, to make such apportionment, in the same manner and with the like effect as if made by said assessors. (*Thus amended by chap. 840, Laws of 1885.*)

Town clerk to furnish certified statement when requested.

§ 4. The town clerk shall, whenever requested, furnish to the trustees or board of education of each district a certified statement of the amounts apportioned to such district, and the name of the company to which the same relates.

When alteration is made in school district.

§ 5. In case any alteration shall be made in any school district, affecting the property of any railroad, telegraph, telephone or pipe-line company, the officer making such alteration shall, at the same time, determine what change in the valuation of the said property in such district would be just, on account of the alteration of district, and the valuation shall be accordingly changed. (*Thus amended by chap. 340, Laws of 1885.*)

CHAP. 506, LAWS OF 1870.

AN ACT to facilitate the payment of taxes by railroad companies.

Annual statement to be delivered by clerks of the several boards of supervisors to county treasurer.

SECTION 1. It shall be the duty of the clerk of the board of supervisors of the several counties of this State (except New York and Kings counties), within five

days after the making out or issuing of the annual tax warrants by the board of supervisors of their respective counties, to prepare and deliver to the county treasurer a statement showing the title of all railroad corporations in such county, as appears on the last assessment-roll of the towns or cities in such county, the valuation of the property, real and personal, of such corporation in each town or city, and the amount of tax assessed or levied on such valuation in each town or city in their county.

Railroad companies may pay tax to county treasurer; fees of treasurer.

§ 2. Any railroad company heretofore organized under the laws of this State, or that may be hereafter organized, may, within thirty days after the receipt of such statement by the county treasurer, pay the amount of tax so assessed or levied on their property, with one per cent fees on said tax, to the county treasurer, who is hereby authorized and directed to receive such amounts and to give proper receipt therefor.

County treasurer to notify collector of non-payment of tax; duty of collector.

§ 3. In case any railroad company shall fail to pay such tax within said thirty days, it shall be the duty of the county treasurer to notify the collector of all towns or cities in their county in which said company is assessed, of such failure to pay said tax, and upon receipt of such notice it shall be the duty of such collector to collect said tax in the manner now provided by law, together with five per cent fees: but no town or city collector shall collect any tax levied or assessed upon the property of any railroad company in said county, by the supervisors of the county, until the receipt of such notice from the county treasurer.

County treasurer to credit taxes; collector to be credited with fees; surplus to be paid to supervisor.

§ 4. The several amounts of tax so received by the county treasurer, of and from railroad companies, shall be placed to the credit of the town or city for or on account of which the same was levied or assessed, and to the credit of the fund or funds to which the same is now or shall be hereafter pledged or appropriated by law, and the one per cent fees also paid shall be placed to the credit of the collector of said city or town; and in case such amounts shall exceed the sum due from said town or city, the surplus shall, on demand, be paid to the supervisor of said town or city, who shall receive, hold and disburse the same as if received from the collector of said town or city.

Railroad company may pay tax to collector; proviso.

§ 5. Nothing in this act shall be construed to prevent any railroad company from paying their tax to the collector of towns or cities as now provided by law; nor shall the provisions of this act be construed to repeal or in any manner interfere with the provisions of chapter 907 of the Session Laws of 1889.

CHAP. 344, LAWS OF 1877.

AN ACT to authorize railroad corporations to pay commutation money for highway labor to the commissioners of highways of town.

Railroad corporation may commute; money how applied.

SECTION 1. Whenever any railroad corporation assessed in any town or road district for highway labor shall elect to commute therefor, as provided by law, such corporation shall pay the commutation money to the commissioner or commissioners of highways of such town, and such moneys shall be applied and expended in the improvement of roads and buildings and maintenance of bridges of such towns. (*Thus amended, Laws of 1878, chap. 44.*)

Not applicable to incorporated villages when separate road district; proviso.

§ 2. This act shall not apply to incorporated villages which constitute a separate road district nor shall it have the effect to repeal or modify chapter 66 of the Laws of 1872.

BONDING OF TOWNS AND RAILROAD AID DEBTS.

Several statutes of this State relative to the bonding of towns, etc., are omitted because by article VIII, section 11 of the Constitution of the State of New York, adopted November 3, 1874, they are practically abrogated, as to any future application, and remain as applying only to the time prior to the adoption of said constitutional amendment. These acts are as follows: Chap. 695, Laws of 1866; chap. 907, Laws of 1869; chaps. 300, 438, 507, 597, Laws of 1870; chaps. 64, 146, 260, 283, 388, 925, Laws of 1871; chaps. 54, 62, 307, 516, 689, 824, 883, Laws of 1872; chap. 720, Laws of 1873; chap. 328, Laws of 1875; chap. 320, Laws of 1877; chap. 62, Laws of 1879; chaps. 68, 293, Laws of 1882.

Article VIII, Sec. 11, Constitution of the State of New York.

No county, city, town or village shall hereafter give any money or property, or loan its money or credit, to or in aid of any individual, association or corporation, or become directly or indirectly the owners of stock in or bonds of any association or corporation, nor shall any such county, city, town or village be allowed to incur any indebtedness except for county, city, town or village purposes. This section shall not prevent such county, city, town or village from making such provision for the aid or support of its poor as may be authorized by law.

CHAP. 585, LAWS OF 1875.

AN ACT to provide for the sale of stock and bonds of bankrupt railroad companies by municipal corporations holding the same, and for the disposition of the proceeds of such stock or bonds.

Sale of stock or bonds authorized.

SECTION 1. Any municipal corporation within this State holding and owning any stock or mortgage bonds of any railroad company in this State which shall have been adjudicated bankrupt, or the property of which shall be in the possession of a receiver appointed under the laws of this State, or the railroad or other property of which shall have been sold, or shall have been deemed to be sold, by virtue of any decree of foreclosure of any mortgage executed by such railroad company, is hereby authorized to sell and dispose of such stock or mortgage bonds in the manner hereinafter provided.

When commissioners to give notice of sale; what notice to contain.

§ 2. The commissioner or commissioners of any municipal corporation within this State which shall have issued its bonds in aid of the construction of the railroad of any railroad company in this State within the provisions of section one of this act appointed to issue such bonds of any municipal corporation under any law of this State, or the successor or successors in office of any such commissioner or commissioners, on the application of the mayor and common council of any city, or of the board of trustees of any incorporated village, or of the supervisor of any town within this State, the bonds of which shall have been issued in aid of the construction of any such railroad, as aforesaid, shall forthwith publish a notice of the sale at public auction of the stock or mortgage bonds of any such railroad company held and owned by such municipal corporation as aforesaid, at such public place within the limits of such municipal corporation as such commissioner or commissioners may specify in such notice. The said notice shall specify the amount of such stock or bonds so held by said municipal corporation and the number of shares of such stock, and the amount of such bonds, respectively, and the name of the railroad company by which the same were issued, and shall be

published in two newspapers published in the county wherein such railroad may be situated, or if it extends through or into more than one county, then in two newspapers published in each county wherein such railroad may be situated, at least once in each week after the first publication of such notice, until the day of sale, which shall be not less than ten nor more than twenty days after the first publication of the said notice.

Sale, how and when made.

§ 3. On the day and at the place of sale specified in the notice aforesaid, the said commissioner or commissioners shall sell at public auction, to the highest bidder for cash, all the stock or mortgage bonds of any such railroad company so held and owned by such municipal corporation as aforesaid, in such parcel or parcels as in their discretion shall be most advantageous to the said municipal corporation, and shall deliver the same to the purchaser or purchasers thereof, and shall execute to such purchaser or purchasers any transfer or assignment of such stock or bonds necessary to transfer the same; and thereupon the purchaser or purchasers of such stock or bonds shall be vested with all the right, title, and interest of said municipal corporation, and of the said commissioner or commissioners in and to the stock or bonds so sold as aforesaid.

Proceeds of sale; disposition of.

§ 4. All moneys received by said commissioner or commissioners for any stock or mortgage bonds sold pursuant to the provisions of this act shall be immediately paid over to the treasurer or other officer of such municipal corporation having charge of its funds, in case of a town to the supervisor thereof for the use of such municipal corporation, and, after paying the expenses of such sale, shall be applied by such municipal corporation to the payment and extinguishment of its bonds issued in aid of said railroad company, and to no other purpose whatever; provided, that in case the municipal bonds so issued shall have been all paid before such sale, or in case the moneys realized from such sale shall be more than sufficient to pay off the municipal bonds issued as aforesaid in aid of such railroad corporation then outstanding, the proceeds of such railroad stock or bonds, or any such balance thereof, shall be applied by such municipal corporation to the payment of such other debt thereof, or to defray such other lawful charge thereupon as the common council of any such city, or the board of trustees of any such incorporated village, or the qualified voters of any such town, in town meeting, may direct.

Repeal.

§ 5. All acts and parts of acts, so far as they are inconsistent herewith, are hereby repealed.

CHAP. 522, LAWS OF 1881.

AN ACT in relation to the bonded indebtedness of villages, cities, towns and counties in this State created in aid of railroads.

Present bonded indebtedness may be paid by issue of new bonds; proviso as to rate of interest; cancellation of bonds taken up; when new bonds to be payable.

SECTION 1. The present bonded indebtedness of any village, city, town or county in this State, including interest past due and unpaid, may be paid up or retired by the issue of new bonds for like amount by the board of trustees, mayor and common council, town board, board of supervisors or supervisor, or railroad commissioners, or officer or officers, now having in charge according to law the payment of interest and principal on bonds herein proposed to be paid and retired, respectively of such village, city, town or county, provided, however, that such new bonds shall be issued only when existing bonds can be retired by the substitution therefor of such new bonds or can be paid up by money realized on the sale of such new bonds; and provided further, that such new bonds shall bear

interest at a rate not exceeding five per cent per annum, payable semi-annually. All existing bonds taken up by the substitution of such new bonds or paid under the provisions of this act shall be immediately canceled, and a certificate executed by the officers issuing such new bonds shall be forthwith made and filed by them in the county clerk's office of the proper county, which shall state the amount of existing bonds so canceled and of new bonds so issued. This act shall not be so construed as to authorize the issue of new bonds to supersede or pay existing bonds which have been adjudged invalid by the final judgment of a competent court. The new bonds so to be issued shall be made payable at any period or periods deemed advisable by the officers issuing the same, not less than two years or more than thirty years from their date; and shall bear date and draw interest from the date of the payment of existing bonds, or the receipt of money to pay existing bonds; and shall be issued in no case at less than for their par value. (*Thus amended, chap. 453, Laws of 1883.*)

New bonds to be valid, recital in same.

§ 2. The bonds issued under the provisions of this act when substituted or sold to retire existing bonds, by any authorized officers of any town, village, city or county, or their successors in office, shall be valid and binding on the town, village, city or county wherein they are issued, and such bonds shall contain a recital that they are issued under the provisions of this act, and such recital shall be conclusive evidence in any court of the validity of said bonds and the regularity of their issue.

New bonds exempt from taxation.

§ 3. All new bonds issued by any village, city, town or county in this State, under the provisions of this act, shall be exempt from taxation for town, county, municipal or State purposes until the period when they are made payable.

Commissioners, supervisors and financial officers required to report annually; to whom to report, and what.

§ 4. It shall be the duty of the railroad commissioners, supervisors and financial officers of towns, villages, cities and counties, having in charge the moneys received and collected, and responsible for the payment of the interest and principal due on bonds issued under this act, and they are hereby required to report annually to the board of supervisors of counties, the trustees of villages and the mayor and board of aldermen or common council of cities as the case may be, as now required by law, the sum due and payable the succeeding year, both principal and interest on said bonds.

Tax to pay bonds.

§ 5. It shall be the duty of the boards of supervisors of counties, the trustees of villages, and the boards of aldermen, and the common councils of cities, and they are hereby required to levy and collect in each year upon the towns, villages, cities or counties severally obligated, moneys sufficient to pay such interest when and as it shall fall due, and the principal of such bonds when and as the same shall become due and payable.

CHAP. 421, LAWS OF 1876.

AN ACT to authorize towns, cities and villages to pay their bonds, issued for railroad purposes, by exchanging therefor their railroad stock or bonds, and to exchange their stock of any railroad corporation for the bonds of such corporation.

Town, city or village may exchange its bonds for railroad bonds or stocks; cancellation of bonds.

SECTION 1 It shall be lawful for any town, city or village to exchange the bonds and stock of any railroad corporation for and in payment of the bonds of any such town, city or village, heretofore issued in aid of any such railroad cor-

poration, and it shall be lawful for any town, city or village to exchange the stock of any railroad corporation for the bonds of such corporation; and such exchange may be made by the officers of such town, city or village having the lawful charge and custody of such railroad stock and bonds, but the same shall not be thus exchanged for less than the par value thereof; and when any such exchange shall be made, report thereof shall be made, by the officers making the same, to the then next meeting of the board of auditors of their town, the common council of their city, or the board of trustees of their village; and the town, city or village bonds obtained by such exchange shall thereupon be canceled.

CHAP. 124, LAWS OF 1883.

AN ACT to amend chapter 522 of the Laws of 1881, entitled "An act in relation to the bonded indebtedness of villages, cities, towns and counties in this State, created in aid of railroads."

Indebtedness may be paid by issue of new bonds; proviso; existing bonds to be canceled; construction of act; new bonds when to be made payable.

SECTION 1. Section 1 of chapter 522 of the Laws of 1881, entitled "An act in relation to the bonded indebtedness of villages, cities, towns and counties in this State, created in aid of railroads," is hereby amended so as to read as follows:

§ 1. The present bonded indebtedness of any village, city, town or county in this State, which was created to aid in the construction of any railroad, or which was created in the renewal or extension of any such indebtedness, or of any part thereof, may be paid up or retired, in whole or in part, whether due or to fall due by the issue of a new bond or bonds by the board of trustees, mayor and common council, town board, board of supervisors, or supervisor or railroad commissioners, or officer or officers now having in charge, according to law, the payment of interest and principal on bonds herein proposed to be paid and retired, respectively, of such village, city, town or county; provided, however, that such new bond or bonds shall be issued only when the existing bond or bonds can be retired by the substitution therefor of such new bond or bonds, or can be paid up by money realized on the sale of such new bond or bonds; and provided, further, that such new bond or bonds shall bear interest at a rate not exceeding five per centum per annum, payable semi-annually. Any existing bond or bonds taken up by the substitution of such new bond or bonds, or paid under the provisions of this act, shall be immediately canceled, and a certificate executed officially by the officer or officers issuing such new bond or bonds shall be forthwith made and filed by him or them in the county clerk's office of the proper county, which shall state the amount of the existing bond or bonds so canceled, and of the new bond or bonds so issued. This act shall not be so construed as to authorize the issue of new bonds to supersede or pay existing bonds which have been adjudged invalid by the final judgment of a competent court. The new bond or bonds issued under the provisions of this act shall be made payable at any period deemed advisable by the officer or officers issuing the same, not less than two years nor more than thirty years from their date, and shall bear date and draw interest from the date of the payment of the existing bond or bonds, or the receipt of money to pay the existing bond or bonds; and shall be issued in no case at less than their par value. (*See, however, section 1, chap. 522, Laws of 1881, as amended by chap. 453, Laws of 1883, page 588 hereof.*)

CHAP. 349, LAWS OF 1877.

AN ACT to provide for the payment of bonds issued by municipal corporations under the provisions of chapter 907, Laws of 1869, entitled "An act to amend an act entitled 'An act to authorize the formation of railroad corporations and to regulate the same,' passed April 2, 1850, so as to permit municipal corporations to aid in the construction of railroads," and the acts amendatory thereof.

Commissioners to report annually bonded indebtedness.

SECTION 1. It shall be the duty of the commissioners appointed under the provisions of chapter 907, Laws of 1869, entitled "An act to amend an act entitled

“An act to authorize the formation of railroad companies, and to regulate the same,” passed April 2, 1850, so as to permit municipal corporations to aid in the construction of railroads,” and the acts amendatory thereof, to report annually the total amount of bonds issued under said chapter 907, Laws of 1869, and the acts amendatory thereof, by the town, city or village represented by such commissioners; the date and time when the principal of said bonds will become due, the rate and times of payment of interest thereon, the amount of such principal or interest paid, the amount of said principal or interest due and unpaid and to become due before the annual tax levy and collection of tax for the year next succeeding, and the amount in their hands applicable to the payment of the principal of said bonds or the interest thereon.

Form and execution of report; to be delivered to supervisors.

§ 2. Such report shall be in writing, signed by the said commissioners, or a majority of them, and there shall be affixed to said report an affidavit of at least one of the commissioners that such report is in all respects true and correct. The commissioners shall deliver said report to the board of supervisors of the county within three days after the commencement of the annual meeting of said board of supervisors.

Provisions for payment; moneys, to whom to be paid; bond of commissioners, renewal of.

§ 3. It shall be the duty of the board of supervisors, at the annual meeting, when such report is received, to cause to be levied and raised by tax, on the taxable property of said town, city or village, the amount necessary to pay the principal and interest due and to become due at any time prior to the annual tax levy and collection of tax for the year then next succeeding, as shown by said report, after deducting moneys on hand for the purpose. The amount so levied and raised by tax, when so collected, shall be paid over to the said commissioners, to be by them applied to the purpose for which it was so collected. And all money now in the hands of the supervisor of any town, or officer of any city or village, applicable to the payment of the principal of said bonds, or interest thereon, shall be, on demand, paid to such commissioners, and any money hereafter raised under the provisions of the act hereby amended, which by law is to be applied to the payment of said bonds, or interest thereon, shall, in like manner, be paid to said commissioners. But before any money shall be so paid to such commissioners, they shall severally execute to the town, city or village, and deliver to the town clerks of towns, or the clerks of cities or villages, a bond with two or more sureties in double the amount of the money to be so received by them, as near as can be ascertained, conditioned for the proper and due disbursement of such money, and the proper accounting therefor, which bond shall be first approved by the supervisor, or the county judge, and by the mayor or president of cities or villages, and said bond shall be renewed annually.

Application of moneys received by commissioners; cancellation of bonds; commissioners to report to town auditors, etc., annually; duplicate to be filed, etc.; indorsement by town officers, etc.; deposit of report and bonds; acts not applicable to certain localities.

§ 4. It shall be the duty of said commissioners to pay the principal and interest of said bonds at the maturity thereof, and on making such payments the bond or interest coupons paid shall be canceled by said commissioners by cutting out a portion of said bonds or coupons; and a full record of all bonds and interest coupons paid and canceled shall be kept by said commissioners, which record shall be at all times open to the inspection of the supervisor, members of the board of town auditors, and justices of the peace of towns, or the members of common councils or trustees of cities or villages; and said commissioners shall report in writing to the board of town auditors of towns, at their annual meeting, and to the common council or trustees of cities or villages, on the first day of April of each year, the date, number and amount of all bonds and interest coupons paid by them and canceled during the past year, and since their last report, and shall, at the same time, produce and deliver to the said town auditors, common council or

trustees, the bonds and interest coupons canceled by them, taking a receipt therefor, which shall set forth the date, number and amount of each bond or coupon. Said commissioners, at the time of making such report, shall also file with the town clerk of towns, and clerk of cities and villages, a duplicate thereof. The said town auditors and the common council or trustees, as the case may be, shall indorse upon the report so received from the commissioners, that the bonds and interest coupons mentioned therein, duly canceled, were received by them from the commissioners, if such is the case, and if all or any of them are not so received, so state in the indorsement. They shall then deposit said canceled bonds and coupons with said report, in the office of the clerk of the county for safe keeping. Nothing in this act contained shall in any manner apply to or affect the town of Orleans, in the county of Jefferson, or any officer thereof, or any money raised by tax on the property therein, or to any bonds except such as were given under the act mentioned in the foregoing title.

Limitation.

§ 5. The provisions of this act shall not apply to the counties of Oswego, Madison, Erie, Orleans, Niagara and Genesee.

CHAP. 84, LAWS OF 1871.

AN ACT to authorize the owners and holders of certain railroad mortgage bonds made payable to bearer, to render the same payable to order only.

Railroad and other corporate bonds; how made non-negotiable.

SECTION 1. It shall be lawful for any person or persons owning and holding any railroad mortgage bonds, or other corporate bonds (for which a registry is not by law provided), heretofore issued, or which may be hereafter issued, and made payable in this State, and which are made payable to bearer, to render the same non-negotiable by the owner and holder indorsing upon the same and subscribing a statement that said bond is the property of such owner. And thereupon the principal sum of money mentioned in said bond shall only be payable to such owner or his legal representatives or assigns.

Transfers; how made.

§ 2. The bonds described and referred to in the first section of this act may be transferred by an indorsement in blank, giving name and residence of assignor, or they may be transferred by an indorsement payable to bearer or to the order of the purchaser (naming him), subscribed by the assignor, giving name and place of residence.

CHAP. 595, LAWS OF 1873.

AN ACT relative to certain negotiable corporate bonds and obligations.

How owner may make bonds non-negotiable.

SECTION 1. The owner or holder of any corporate or municipal bond or obligation (except such as are designed to circulate as currency) payable to bearer, heretofore issued, or which may hereafter be issued and payable in this State, but not registered in pursuance of any law thereof, may make the same non-negotiable (except as provided in the second section of this act), by subscribing his name to a statement indorsed thereon that such bond or obligation is his property; and thereupon the principal sum therein mentioned shall be payable only to such owner or holder, or his legal representatives or assigns.

How transferred after such indorsement.

§ 2. The bonds and obligations mentioned in the last section, after having been indorsed as therein provided, may be transferred by an indorsement, in blank, or

payable to bearer, or to order, with the addition of the assignor's place of residence.

The provisions of this act to apply to interest coupons.

§ 8. The provisions of this act shall apply to all interest coupons accompanying any corporate or municipal bond or obligation payable in this State.

Repeal.

§ 4. So much of chapter eighty-four of the Laws of one thousand eight hundred and seventy-one, entitled "An act to authorize the owners and holders of certain railroad mortgage bonds, made payable to bearer, to render the same payable to order only," as is inconsistent with this act is hereby repealed.

CHAP. 160, LAWS OF 1838.

AN ACT to punish willful injuries to railroads.

Punishment.

SECTION 1. Every person who shall willfully, with malicious intent, remove, break, displace, throw down or destroy any iron, wooden or other rail, or any branches or branch-ways, or any part of the tracks, or any bridge, viaduct, culvert, embankment or other fixture, or any part thereof, attached to or connected with such tracks of any railroad in this State now in operation, or which shall hereafter be put in operation, or who shall willfully, with like malicious intent, place any obstructions upon the rails or tracks of such railroad, shall, upon conviction, be punished by imprisonment in the State prison not exceeding five years, or in a county jail not less than six months.

Excepting in cases of death.

§ 2. The preceding section shall not be so construed as to extend to cases where death to a human being shall result from the commission of either of the offenses mentioned in said section.

(§ 3. Repeals chap. 187, Laws of 1834.)

CHAP. 185, LAWS OF 1857.

AN ACT to prevent extortion by railroad companies.

Penalty for taking excess of fare.

SECTION 1. Any railroad company which shall ask and receive a greater rate of fare than that allowed by law shall forfeit \$50, which sum may be recovered, together with the excess so received, by the party paying the same; but it shall be lawful, and not construed as extortion, for any railroad company to take the legal rate of fare for one mile for any fractional distance less than a mile.

CHAP. 346, LAWS OF 1863.

AN ACT empowering railroad companies to employ police force.

Appointment of policemen.

SECTION 1. Any railroad corporation on which road steam is used as the motive power, and any steamboat company may apply to the Governor to commission such person or persons as the said corporation may designate, to act as policemen for said corporation; but no more than one policeman shall be appointed at any one station of such company. (*Thus amended, Laws 1866, chap. 259.*)

Number.

§ 2. The Governor, upon such application, may appoint such persons or so many of them as he may deem proper to be such policemen, and shall issue to such person or persons so appointed a commission to act as such policemen.

Policeman to take oath of office; Secretary of State to transmit certificate of appointment, etc.

§ 3. Every policeman so appointed shall, within fifteen days after receiving his commission, and before entering upon the duties of his office, take and subscribe the oath of office prescribed in the case of officers appointed by the Governor, in the twelfth article of the Constitution, which oath of office shall be taken and subscribed before the Secretary of State, or before the county clerk of the county in which such policeman resides, which said oath, or a duplicate thereof, shall be filed in the office of the Secretary of State. And it shall be the duty of the Secretary of State, upon the filing of such oath of office, to transmit to the county clerk of each county through or into which the railroad or steamboat for which such policeman is appointed may run, and in which the said policeman is herein authorized to act, a certificate under his hand and the seal of his office, setting forth the appointment of said policeman by the Governor, and that his commission is recorded and oath of office filed in the office of said Secretary of State, which certificate shall be filed by each county clerk receiving the same. Such policemen shall thereupon severally possess all the powers of policemen in the several towns, cities and villages in which they shall be so authorized to act as aforesaid. (*Thus amended, Laws of 1875, chap. 198.*)

Shield.

§ 4. Such police shall, when on duty, severally wear a metallic shield, with the words "railway police," or "steamboat police," as the case may be, and the name of the corporation for which appointed inscribed thereon, and said shield shall always be worn in plain view, except when employed as detectives. (*Thus amended, Laws of 1866, chap. 259.*)

Compensation.

§ 5. The compensation of such police shall be paid by the companies for which the policemen are respectively appointed, as may be agreed upon between them.

Powers of, when to cease.

§ 6. Whenever any company shall no longer require the services of any policeman so appointed as aforesaid, they may file a notice to that effect in the several offices in which notice of such appointment was originally filed, and thereupon the power of such officer shall cease and be determined.

CHAP. 246, LAWS OF 1865.

AN ACT in relation to employees on railroads in this State.

Any person may be employed; age of.

SECTION 1. It shall be lawful for the owner or owners of any railroad in this State to employ any inhabitant of this State of the age of twenty-one years, as a car driver or conductor, or in any other capacity, notwithstanding any law, regulation, or ordinance of any officer or municipality, or of the common council or government of any city or county to the contrary.

CHAP. 560, LAWS OF 1866.

AN ACT for the preservation of the health of animals for human food.

Limit of confinement of cattle in cars.

SECTION 1. No railroad company in this State, in the carrying and transportation of cattle, sheep or swine, shall confine the same in cars for a longer period than twenty-eight consecutive hours, unless delayed by storms or other accidental causes, without unloading for rest, water and feeding, for a period of at least ten consecutive hours. In estimating such confinement, the time the animals have been confined without such rest on connecting roads from which they are received shall be computed, it being the intention to prevent their continuous confinement

beyond twenty-eight hours, except upon the contingencies herein stated. Nothing in this act contained shall require the unloading of cattle, sheep or swine from the cars of the Buffalo and State Line railroad before their arrival at Buffalo, and the Atlantic and Great Western railroad, before they arrive at Salamanca.

What company may do when owner neglects to feed.

§ 2. Provided the owner or person in charge of said animals refuses or neglects to pay for the care and feed of animals so rested, the railroad company may charge such expense to the owner or consignee, and retain a lien upon the animals until the same is paid; and *provided further*, that no claim of damages for detention shall be recovered by the owner or shipper of any animals for the time they are detained under the provisions of this act.

Penalty for violation of act.

§ 3. Any railroad company, owner, consignee, or person in charge of said cattle, sheep, or swine, who shall violate any provision of this act, shall, for each and every such violation, be liable for and forfeit and pay a penalty in the sum of \$100, to be sued for and collected in any court having jurisdiction, by any person, in the name of the people of the State of New York; one-half of the penalty, when collected, to belong to the informer, and the balance to be paid to the State Treasurer of the State of New York.

CHAP. 483, LAWS OF 1867

AN ACT to prevent injury and loss of life to persons on railroad cars, and in relation to a uniform for the employees thereof.

Platforms to cars; uniform for officers.

SECTION 1. It shall be the duty of every railroad company or corporation in this State, and every railroad company or corporation running, or that may hereafter run its passenger cars in this State, to cause the platforms upon the ends of all passenger cars to be so constructed that when said cars shall be coupled together, or made up into trains and in motion, danger of injury to persons or loss of life between the ends of said cars, by falling between the platforms of said cars while passing from one car to another, shall, so far as practicable, be avoided. It shall be the duty of every railroad company operating a railroad in this State by the power of steam, to designate and prescribe such peculiar uniform or external apparel, to be worn by its officers, agents and employees, engaged in or about its passenger offices or stations, or on or about its trains upon its tracks, as shall plainly, to all travelers, distinguish all such persons; and such uniform or apparel shall also plainly indicate or distinguish the position or rank of the wearer in the employment of such company. It shall be the duty of every such person to provide and wear such apparel or uniform when employed as aforesaid. And every such company that shall fail to designate and prescribe such apparel or uniform, and to also cause the same to be generally worn by all such persons, from and after six months from the passage of this act, shall forfeit to the people of this State and be liable to pay to the Treasurer of this State, on the first day of January next following the expiration of said six months, and on every first day of January thereafter, the sum of \$10,000. It shall be the duty of the Attorney-General of this State, in the name of the people thereof, to sue for and recover said penalties for the benefit of the State. And in case of the refusal or omission of any person aforesaid to wear said uniform or apparel, as contemplated by this act, or to obey any reasonable rule or regulation of any such company relative to the same, or the wearing thereof, it shall be the right and duty of every such company to deduct and retain the amount of five per cent of the agreed or accustomed compensation of such delinquent person, during the period of any such neglect or refusal. And every person who shall advise or use any persuasion to induce any person being an officer, agent or employee of any such company, to leave the service of such company by reason of any such apparel or uniform being required to be worn, or to refuse to wear the same, or any part thereof, every person who, without authority, shall

wear such uniform or apparel, and every person being an officer or agent in any company aforesaid, who shall use any inducement with any person aforesaid to come into the employment of any other such company, by reason of apparel or uniform so required or designated to be worn, shall severally, by reason thereof, be guilty of a misdemeanor and be liable to be punished for such offense.

Fine for violation.

§ 2. Each and every violation of this act by any railroad company or corporation, shall, on conviction, be punished by a fine of not less than \$50 nor more than \$500, to be sued for and collected in the name of the people of the State of New York by the Attorney-General, and the moneys, when collected, to be paid into the general fund of the State.

Proviso.

§ 3. This act shall not operate or be construed to exempt railroad companies or corporations from liability for damages to persons who may be injured or sustain loss or damage by or through any neglect to comply with the provisions of this act.

(§ 4 omitted as obsolete.)

CHAP. 636, LAWS OF 1870.

AN ACT to provide for the better protection of life and safety of property transported on the several railroads of this State.

Qualification of engineers.

SECTION 1. No person shall be employed as an engineer by any officer or agent acting for or in behalf of either of the railroads of this State, who cannot read the printed time tables and ordinary handwriting.

Id.

§ 2. No person shall run an engine on a regular or special train upon either of the railroads of this State who cannot read printed time tables and ordinary handwriting.

Penalty.

§ 3. Any person offending against the provisions of this act shall, upon conviction thereof, be deemed guilty of a misdemeanor, and punishable for each offense by a fine not exceeding \$100, or six months' imprisonment in a county jail, in the discretion of the court having cognizance of the offense.

CHAP. 261, LAWS OF 1877.

AN ACT to punish trespassing on railroads.

Obstructions on track; punishment for willfully placing.

SECTION 1. Any person who shall willfully place any obstruction upon any railroad, or loosen, tear up or remove any part of a railroad, or displace, tamper or in any way interfere with any switches, frogs, rail, track, or other part of any railroad, so as to endanger the safety of any train, or who shall willfully throw any stone or other missile at any train on any railroad, or at any street car or omnibus upon or in which there shall be at the time any passenger or passengers, shall, upon conviction thereof, be punished by imprisonment in a State prison not exceeding ten years, or by fine not exceeding \$1,000, or by both such fine and imprisonment. (*Thus amended, Laws of 1881, chap. 436.*)

(Chapter 415, Laws of 1879, applicable to Kings county only, and hence omitted.)

CHAP. 474, LAWS OF 1879.

AN ACT to prevent the delaying of passengers on street railroad cars, and to prohibit obstructing the free passage of street railroad cars.

Obstructing street cars a misdemeanor.

SECTION 1. Every person who shall willfully obstruct, hinder or delay the passage or running of any car lawfully running upon any horse or street railroad in this State, shall be deemed guilty of a misdemeanor.

CHAP. 223, LAWS OF 1880.

AN ACT for the better protection of the traveling public.

Governor authorized to appoint conductors and brakemen special policemen.

SECTION 1. The Governor is hereby authorized, in his discretion, to appoint all or any conductors and brakemen of any trains of any steam railroad in this State conveying passengers, for the purposes of this act, policemen having all the powers, for the purposes of this act, with which policemen of villages and cities are clothed, and each and every such conductor and brakeman shall take and file the usual oath of office, in the office of the clerk of the county in which he resides, or in the office of the clerk of the county in this State in which either terminus of such road may be.

Power to arrest.

§ 2. All such conductors and brakemen acting as policemen under this act, upon any such railroad, shall have full power and it shall be their duty to arrest and hold in custody, and deliver to any magistrate having jurisdiction in such cases, at either terminus of such road in this State, or at any intermediate station, any or all persons whom they may find engaged in, or endeavoring to entice others to engage in any game of cards or any other game of chance whatever, in which money or any representative of money, or any other valuable thing, is to be lost or won, and to enter complaint to such magistrate for any violation of the law governing in such cases.

Penalty for failure to act.

§ 3. Any conductor or brakeman refusing or neglecting to perform the duty imposed upon him by this act shall be liable to a fine not exceeding \$250, to be sued for by and in the name of any superintendent of the poor of any county where such refusal or neglect may have occurred, in any court of competent jurisdiction at any place on the line of said railroad, or to imprisonment not less than six months, or to both, in the discretion of the court.

Fines, when collected; disposition of.

§ 4. Any fine so imposed, when collected, shall be placed in the treasury of the county where recovered, for the use of the poor of said county.

Copy of this act must be posted by superintendent or manager.

§ 5. It shall be the duty of every superintendent or manager of every steam railroad in this State, immediately after the passage of this act, to post a copy of this law in some conspicuous place in each and every car used for the conveyance of passengers, under a penalty of not to exceed \$5 for each and every such car in which such notice shall not be posted.

CHAP. 370, LAWS OF 1880. •

AN ACT to prevent trespassing and intrusion upon railroad cars and engines.

Jumping upon cars prohibited.

SECTION 1. No minor or other person, not a passenger, shall climb, jump, step,

stand upon, cling to or in any way attach himself to, any locomotive, engine or car, upon any part of the track of any railroad in this State, unless in so doing such person shall be acting in compliance with law, or by permission under the lawful rules and regulations of the corporation or proper officer managing such railroad.

Solicitation to enter baggage car prohibited.

§ 2. No person in the employment of any said corporation or officer, or intrusted with the care or possession of any such engine, or any freight or baggage car upon any said track, shall invite or solicit any such minor or other person to come, or be, or consent to his remaining upon any last-named car, or upon any engine, unless said minor or last-named person shall have the right by law or permission as aforesaid to go or remain upon such car or engine.

Punishment.

§ 3. And any person who shall violate either section of this act shall be guilty of a misdemeanor, and be liable to a fine not less than \$5 nor exceeding \$25, which may be imposed by any court or magistrate having jurisdiction of any misdemeanor; and the person so offending shall be further liable to imprisonment until such fine and costs of prosecution shall be paid.

Repeal.

§ 4. All acts and parts of acts inconsistent with this act are hereby repealed.

CHAP. 490, LAWS OF 1885.

AN ACT concerning tramps.

Penalty for entering building without consent.

§ 4. Any tramp who shall enter any building against the will of the owner or occupant thereof, under such circumstances as shall not amount to burglary, or willfully or maliciously injure the person or property of another, which injury under existing law does not amount to a felony, or shall be found carrying any firearms or other dangerous weapon, or burglar's tools, or shall threaten to do any injury to any person or to the real or personal property of another, when such offense is not now punishable by imprisonment in the State prison, shall be deemed guilty of felony, and on conviction, shall be punished by imprisonment in the State prison at hard labor for not more than three years.

CHAP. 100, LAWS OF 1847.

AN ACT to provide for the destruction of Canada thistles and other noxious weeds on the banks of the canals, railroads and turnpike roads.

Duty of superintendent of canals.

SECTION 1. It shall be the duty of the superintendents of canals to cause all Canada thistles and other noxious weeds growing on the banks and sides of the canals, to the width owned by the State, to be cut down twice in each and every year, once between the fifteenth day of June and the first day of July, and once between the fifteenth day of August and the first day of September.

Provision in case of refusal or neglect.

§ 2. If the said officers shall refuse or neglect to cause the same to be cut at the times as aforesaid, it shall be lawful for any person or persons to cut the same

between the first and fifteenth days of July and between the first and fifteenth days of September in each and every year, at the expense of the superintendents having charge of the sections on which such thistles and noxious weeds shall be so cut, at the rate of one dollar per day for the time occupied in so cutting, to be recovered in any court of justice in this State.

Canada thistles to be cut ; if corporation neglect, any person may cut down at expense of corporation.

§ 3. It shall be the duty of the several railroad corporations and turnpike road corporations within this State to cause all Canada thistles, white and yellow daisies and other noxious weeds growing on any lands owned or occupied by such corporations, to be cut down twice in each and every year, once between the fifteenth day of June and the twenty-fifth day of June, and once between the fifteenth day of August and the twenty-fifth day of August. (*Thus amended, Laws 1881, chap. 296.*)

Any person may cut down where corporation neglects ; corporation to pay expense.

§ 4. If the said corporations, or any or either of them, shall neglect to cause the same to be cut down, at the times in the third section of this act mentioned, it shall be lawful for any person to cut the same, between the twenty-fifth day of June and the fifth day of July inclusive, and between the twenty-fifth day of August and the fifth day of September inclusive in each year, at the expense of the corporation on whose lands said Canada thistles, white and yellow daisies, or other noxious weeds shall be so cut, at the rate of \$3 per day for the time so occupied in cutting, to be recovered in any court of justice in this State. (*Thus amended, Laws 1881, chap. 296.*)

CHAP. 283, LAWS OF 1885.

AN ACT to establish a forest commission, and to define its powers and duties and for the preservation of forests.

Forest lands not to be leased or taken.

§ 8. The lands now or hereafter constituting the forest preserve shall be forever kept as wild forest lands. They shall not be sold, nor shall they be leased or taken by any person or corporation, public or private.

* * * * *

Railroad companies to burn all inflammable material.

§ 25. Every railroad company whose road passes through waste or forest lands, or lands liable to be overrun by fires within this State, shall twice in each year cut and burn off or remove from its right of way all grass, brush or other inflammable material, but under proper care, and at times when the fires thus set are not liable to spread beyond control.

Locomotives to be provided with arrangement for preventing escape of fire from engine.

§ 26. All locomotives which shall be run through forest lands shall be provided, within one year from the date of this act, with approved and sufficient arrangements for preventing the escape of fire from their furnace or ash-pan, and netting of steel or iron wire upon their smoke-stack to check the escape of sparks of fire. It shall be the duty of every engineer and fireman employed upon a locomotive to see that the appliances for the prevention of the escape of fire are in use and applied, as far as it can be reasonably and possibly done.

§ 27. No railroad company shall permit its employees to deposit fire-coals or ashes upon their track in the immediate vicinity of woodlands or lands liable to be overrun by fires, and in all cases where any engineers, conductors or trainmen discover that fences along the right of way, on woodlands adjacent to the railroad, are burning, or in danger from fire, it shall be their duty to report the same at

their next stopping place, and the person in charge of such station shall take prompt measures for extinguishing such fires.

Companies to provide men to extinguish fires.

§ 28. In seasons of drought, and especially during the first dry time in the spring after the snows have gone and before vegetation has revived, railroad companies shall employ a sufficient additional number of trackmen for the prompt extinguishment of fires. And where a forest fire is raging near the line of their road they shall concentrate such help and adopt such measures as shall most effectually arrest their progress.

§ 29. Any railroad company violating the provisions or requirements of this act shall be liable to a fine of \$100 for each offense.

CHAP. 470, LAWS OF 1857.

AN ACT to prevent frauds in the sale of tickets to passengers upon railroads, steamboats and steamships.

Sale of tickets.

SECTION 1. No person other than the agents or employees of railroad, steamboat or steamship companies of this State, duly appointed by them for that purpose, by a proper authority in writing, shall offer for sale, or sell within this State, any ticket or tickets or any printed or written instrument issued by or purporting to have been issued by any railroad, steamboat or steamship company in this State or elsewhere, for the transportation of any passenger or passengers, upon any such railroad, steamboat or steamship, or any instrument wholly or partly printed or written, delivered for the purpose or upon the pretense of the procurement to such passenger or passengers, of any such ticket or tickets, or in any other manner charge, take or receive any money as a consideration or price for such passage or for the procurement of such passage ticket or tickets; and no ticket or tickets, or other evidence as aforesaid, shall be sold or offered for sale by the said agents or employees, except at the offices designated for that purpose by the said companies respectively, and at prices not exceeding their regular established rates, "or at offices conveniently located by agents or other duly organized railway companies," provided that nothing in this amendment shall apply to the city and county of New York, or the county of Kings. (*Amended by chap. 890, Laws of 1868.*)

Violation of act.

§ 2. Whenever any person or persons shall be complained of and arrested for violating any of the provisions of the first section of this act, it shall be the duty of the magistrate, before whom such complaint is made, to take and reduce to writing, in the presence of the person or persons complained of, the evidence of any witness which may be offered, either on behalf of the prosecution or the party accused, and the depositions so taken shall be respectively subscribed by the witnesses making the same, and certified by the magistrate; and when so taken and certified, the said depositions shall be filed in the office of the clerk of the county in which the same shall be taken. Upon the trial of any person or persons charged with any offense under the provisions of this act, the testimony taken as aforesaid may be read by either party, with the like effect as if the said witness or witnesses were sworn in open court upon said trial, provided it shall appear therein that the witness or witnesses were, at the time of taking the same, residents of another State, territory or province, or are emigrating from a foreign country, or are residents of this State, and on their way to some other State, territory or province.

Penalty.

§ 3. Any person violating the provisions of this act shall, upon conviction, be deemed guilty of a misdemeanor, and be punished by a fine of not less than \$100, or by imprisonment of not less than three months, or by both such fine and imprisonment.

CHAP. 590, LAWS OF 1872.

AN ACT to regulate processions and parades in the cities of the State of New York.

No procession or parade to interfere with free passage of cars upon street railways.

SECTION 1. No procession or parade shall use any street upon the surface of which is a railway track or tracks by marching upon the said track or tracks, and a free passage of cars upon railway tracks shall not be interfered with by the formation, halt or march of any such procession or parade, or of the persons composing it. Whenever any procession shall find it necessary to march across a railway track, the portion of said procession which in so marching is likely to stop the passage of any car or cars upon said track, shall come to a halt in order to permit said car to proceed.

* * * * *

Penalty.

§ 4. Every person willfully violating any provision of this act shall be guilty of a misdemeanor, punishable with a fine not exceeding \$20, or imprisonment not exceeding ten days, or both at the discretion of the court.

CHAP. 167, LAWS OF 1877.

AN ACT in relation to the indictment and punishment of criminal offenses committed on railroads within the State.

Where indictments for any crime or offense committed on railroads may be found.

SECTION 1. When any crime or offense shall have been committed within this State, on, in or on board of any railroad train or railroad car making any passage or trip on or over any railroad in this State, or in respect to any portion of the lading or freight of any such railroad train or railroad car, an indictment for the same may be found in any county through which, or any part of which, such railroad train or railroad car shall pass, or shall have passed, in the course of the same passage or trip, or in any county where such passage or trip shall terminate or would terminate if completed; and such indictment may be tried and a conviction thereon had, and all other proceedings to bring the offender to punishment may be had, in any such county, in the same manner, and with the like effect, as in the county where the offense or crime was committed.

CHAP. 585, LAWS OF 1880.

AN ACT for the prevention of accidents to children.

No minor child to be allowed to ride on platform, steps, etc.

SECTION 1. No minor child within this State not being a passenger shall be allowed upon the platform or steps of any railroad car drawn by steam, or of any omnibus, street car or other vehicle drawn by horses, and the parents or guardians of any child who shall permit such child to ride or play upon the steps or platform of any such railroad car, omnibus, street car or other vehicle, shall be punished on conviction by a fine not less than \$5 nor more than \$10.

Duty of policemen and constables to arrest.

§ 2. It shall be the duty of all constables and policemen within this State to arrest any child or children violating the provisions of this act. And any such child or children shall likewise on conviction be punished by a fine not exceeding \$5 for each offense.

CHAP. 439, LAWS OF 1884.

AN ACT for the better protection of life and property upon the railroads of this State, to promote the safer and better management of steam railroads.

The switches to be used in constructing new or in renewal of old ones.

SECTION 1. Steam railroads shall hereafter lay in the construction of new and in the renewal of existing switches upon freight or passenger main line tracks, switches on the principle of either the so-called Tyler, Wharton, Lorenzo or split-point switch, or some other kind of safety switch which shall prevent the derailment of a train when such switch is misplaced, or a switch interlocked with distant signals. For each switch laid in violation of the provisions of this section the corporation, person or persons operating said railroad shall be liable to a penalty of not exceeding \$100, and to the further penalty of \$5 for each day that such switch is used.

Warning signals ; penalty ; what misdemeanor.

§ 2. Every steam railroad shall, within six months after the passage of this act, erect, and thereafter maintain, such suitable warning signals at every low bridge or structure which crosses the railroad above the tracks, where such warning signals may be necessary for the protection of employees on top of cars from injury. The corporation, person or persons operating said railroad, and violating the provisions of this section, shall be liable to a penalty of not exceeding \$100 for each thirty days' neglect. Whoever willfully destroys or breaks any such bridge guard shall be guilty of a misdemeanor.

The Supreme or County Court may on application, etc., order flagman to be stationed at highway crossing, etc.; when such order to be made.

§ 3. At any point where a street, highway, turnpike, plankroad or traveled way is crossed at the same level by a railroad, or at any point where a horse railroad is crossed by a steam railroad, the Supreme Court or County Court may, upon the application of the local authorities and upon ten days' notice to the railroad corporation whose road so crosses, order that a flagman be stationed at such point, or that gates shall be erected across such street, highway, turnpike or plankroad, and that a person be stationed to open and close such gates when an engine or train passes, or make such other order respecting the same as it deems proper. Such order shall only be made after the refusal or neglect of such corporation to station such flagman or erect such gates after having been requested so to do by such local authorities.

Automatic couplers after July 1, 1886, to be placed on new freight cars ; penalty.

§ 4. After July 1, 1886, no couplers shall be placed upon any new freight car to be built or purchased for use, in whole or in part, upon any steam railroad in this State, unless the same can be coupled and uncoupled automatically without the necessity of having a person guide the link, lift the pin by hand, or go between the ends of the cars. The corporation, person or persons operating said railroad, and violating the provisions of this section, shall be liable to a penalty of not exceeding \$100 for each offense.

Trains and locomotives to come to a full stop where roads cross on same level ; when to cross ; expense of watchman when railroad companies disagree as to precedence of trains ; penalty of engineer and corporation ; when may be discontinued ; where this section not to apply.

§ 5. All trains and locomotives on railroads crossing each other on the same level shall come to a full stop before crossing, not less than 200 nor more than 800 feet from said crossing, and shall then cross only when the way is clear and upon a signal to do so from a watchman stationed at the crossing. If

they cannot agree as to the expense of such watchman, it shall be determined by the Supreme Court, upon motion thereto by either of said corporations. In case of disagreement as to the precedence of trains, the Board of Railroad Commissioners, after hearing, may, upon a joint application of the companies interested, prescribe rules in relation thereto. An engineer violating the provisions of this section shall be liable to a penalty of \$100, and any corporation, person or persons operating the railroad violating any of the provisions of this section shall be liable to a penalty not exceeding \$500. The full stop and crossing on signal, provided in this section, may be discontinued when the Board of Railroad Commissioners shall decide it to be impracticable, or when, with the approval of the Board of Railroad Commissioners, an interlocking switch and signal apparatus is adopted and put in operation at such a crossing by the railroads there crossing each other at a level. This section shall not apply to depot yards and the approaches thereto when the crossing roads are under lease or subject to the same management or control in the use of tracks.

When automatic air brakes or other form of safety power brake to be applied from locomotive to be attached to passenger cars not to apply to cars attached to freight trains where speed does not exceed twenty miles an hour; the old link connection after July 1, 1884, not to be used on cars carrying mails and passengers exclusively; penalty.

§ 6. After the expiration of one year from the passage of this act, no steam railroad shall use for passenger transportation any car to which an automatic air brake or other form of safety power brake, applied from the locomotive, shall not be attached. The provisions of this section shall not apply to any cars attached to freight trains, the schedule rate of speed of which does not exceed twenty miles an hour. And after July 1, 1884, no trains which carry mails or passengers exclusively shall run cars coupled by the old link connections. The corporation, person or persons operating said railroad and violating the provisions of this section shall be liable to a penalty not exceeding \$100 for each offense.

Where baggage is willfully or recklessly injured; insufficient help for handling; penalty; disposition thereof.

§ 7. Any baggage-master or other person whose duty it is, for or on behalf of any common carrier, to handle, remove or care for the baggage of passengers, who shall willfully or recklessly injure or destroy any trunk, valise, box, bag, package or parcel, while loading, unloading, transporting, delivering or storing the same, or any railroad corporation which shall knowingly keep in its employment any such willful or reckless baggage-master, or other person, or which shall permit any injury or destruction of the property aforesaid, through failure to provide sufficient help and facilities for the proper handling thereof, shall be liable to a penalty not exceeding \$50. Upon the recovery and payment of such penalty, the court before whom such recovery is had shall set apart and pay over to complainant one-half of the amount so recovered and paid.

Axe, sledge-hammer, crowbar and handsaw to be kept in each closed car in every passenger train; penalty.

§ 8. Each closed car in use in every passenger train, owned or regularly used upon a railroad, shall be equipped with one set of tools, consisting of an axe, sledge-hammer, crowbar and handsaw, to be properly placed so as to be easily removed. The corporation, person or persons operating said railroad violating the provisions of this section shall be liable to a penalty of \$100 for each offense.

Proviso.

§ 9. Nothing in this act shall affect the provisions of chapter 853 of the Laws of 1882.

CHAP. 399, LAWS OF 1881.

AN ACT to provide against accidents on elevated railroads.

Trains to come to full stop, etc.

SECTION 1. All trains upon elevated railroads shall come to a full stop before any passenger shall be permitted to leave such trains; and no train on such rail-

road shall be permitted to start, until every passenger desiring to depart therefrom shall have left the train, provided such passenger has manifested his or her intention to so depart by moving toward or upon the platform of any car; nor until every passenger upon the platform or station at which such train has stopped, and desiring to board or enter such cars shall have actually boarded or entered the same; provided that nothing herein contained shall be construed to permit any person to board or enter any train after due notice from an authorized employee of such railroad corporation that such train is full, and that no more passengers can be then received.

Gates; construction of, etc.

§ 2. Every car used for passengers upon elevated railroads shall have gates at the outer edges of its platforms, so constructed that they shall, when opened, be caught and held open by such catch or spring as will prevent their swinging against and obstructing passengers in their egress from or ingress to such cars; and every such gate shall be kept closed while the car is in motion; and when the car has stopped and a gate has been opened, the car shall not start until such gate is again firmly closed.

Penalty for violation of this act.

§ 3. Any agent, conductor, engineer, brakeman or employee of such railroad corporation, who shall start any train or car, or give any signal or order to any engineer or other person, by signal rope or otherwise, to start any train or car, or who shall obstruct the ingress or egress of any passenger to or from any car, or who shall open or close a platform gate of any car, in violation of this act, shall be deemed guilty of a misdemeanor, and shall upon conviction be held liable to pay a fine of not less than twenty-five nor more than one hundred dollars, or be imprisoned for not less than ten nor more than ninety days, or both; and any elevated railroad corporation that shall fail or neglect to comply with, or enforce the provisions of this act, shall upon the petition of any citizen to any court of record, and upon due notice to such corporation and proof of such failure or neglect, pay to the clerk of the court wherein such petition is made a sum not less than two hundred and fifty nor more than one thousand dollars, as such court may direct by its order; and the sum so ordered to be paid shall be paid by such clerk of the court to the county treasurer, and shall be distributed by such treasurer equally among the public hospitals of the county in which such proceeding is had, at such times as the board of supervisors or board of aldermen in such county shall direct.

Construction of act.

§ 4. Nothing in this act shall be construed to relieve the elevated railroad companies from any liability under which they may now be held by existing laws for damages to persons or property.

This act to be printed and posted in depots, stations and cars.

§ 5. The officers and board of directors of such railroad corporations shall immediately cause copies of this act to be printed conspicuously and posted in the depots or stations and in each car belonging to them.

CHAP. 186, LAWS OF 1890.

AN ACT to repress and punish disorderly conduct on public conveyances.

Disorderly conduct on railroad car, etc., a misdemeanor; police justice or justice of the peace in city or county in which disorderly act committed to have jurisdiction.

SECTION 1. Any person who shall by any offensive or disorderly act, or language, annoy or interfere with the passengers of any public stage, railroad car, ferry-boat, or other public conveyance, or who shall disturb or offend the occupants of such stage, car, boat or conveyance by any disorderly act, language or display, although such act, conduct or display may not amount to an assault or

battery, shall be deemed guilty of a misdemeanor, and any police justice or justice of the peace of the city or county in which any of such acts shall be committed shall have jurisdiction thereof.

CHAP. 261, LAWS OF 1878.

AN ACT to prevent accidents on railroads operated by steam power in the State of New York.

Any person getting on or off freight or wood car while in motion, or unlawfully riding on same, guilty of a misdemeanor; penalty.

SECTION 1. Any person or persons who shall get on or off a freight car or engine while in motion, or who shall ride on any wood or freight car, unless employed by or with permission from the proper officers of such railroad, or the person in charge of such car or engine, shall be deemed guilty of a misdemeanor, and shall be liable to a fine of twenty-five dollars or three months' imprisonment, or both fine and imprisonment.

CHAP. 628, LAWS OF 1857.

AN ACT to suppress intemperance and to regulate the sale of intoxicating liquors.

Intemperate persons to be refused employment by all incorporated companies engaged in conveying passengers, especially railroads, steamboat and ferry companies; penalty for keeping such persons in employment.

* * * * *

§ 31. All incorporated companies and persons in this State, engaged in conveying passengers, including especially all railroad, steamboat and ferry companies and all kinds of corporations conveying for hire, persons or property, shall be and hereby are required to refuse employment to all persons who, on good and sufficient proof, shall be shown to indulge in the intemperate use of intoxicating drinks, and any such company which shall retain in its employ any person or persons who shall, on competent proof, be shown to be intoxicated at any period whilst in the active service of said company or person, either as engineer, conductor, fireman, switch-tender, commander, pilot, mate or foreman, or be in any way connected with the moving power or management, or whose duty, if neglected, would diminish the safety and security of life, limb or property, intrusted thereto, said company or corporation shall be liable to pay a sum of not less than fifty dollars nor more than one hundred dollars to the county treasurer in the county where the offense may be committed and proved, before any court of competent jurisdiction.

* * * * *

CHAP. 499, LAWS OF 1855.

AN ACT in relation to the stealing and forging of railroad tickets.

Conviction of person stealing, taking and carrying away railroad passenger tickets, larceny.

SECTION 1. Every person who shall be convicted of stealing, taking and carrying away any railroad passenger ticket or tickets, prepared for sale to passengers, previous to or after the sale thereof, being the personal property of any railroad company, or of any other corporation or corporations, or of any person or persons, shall be adjudged guilty of grand or petit larceny, as prescribed in the next following section.

Where price of ticket authorized to be charged exceeds twenty-five dollars, grand larceny; punishment; where twenty-five dollars or under, petit larceny; punishment.

§ 2. If the price or prices authorized to be charged for such ticket or tickets, on

a sale thereof, shall exceed the sum of twenty-five dollars, such price or prices shall be deemed the value of such ticket or tickets, and the offense of stealing, taking and carrying away the same shall be adjudged grand larceny, and the person convicted of the same shall be imprisoned in a State prison for a term not exceeding five years; but if such price or prices shall only amount to twenty-five dollars or under, the offense of stealing, taking and carrying away such ticket or tickets shall be adjudged guilty of petit larceny, and the person convicted of the same shall be punished by imprisonment in the county jail not exceeding six months, or by a fine not exceeding one hundred dollars, or by both such fine and imprisonment.

What are railroad tickets.

§ 3. Railroad passenger tickets of any railroad company, as well before the same shall have been issued to its receivers or other agents for sale as after, and whether indorsed by such receivers or other agents or not, are to be deemed railroad tickets within the meaning of this act.

Forged tickets; punishment.

§ 4. Every person who shall be convicted of having forged, counterfeited or falsely altered any railroad ticket mentioned or referred to in either of the preceding sections of this act, or of having sold, exchanged or delivered for any consideration, any such forged or counterfeited railroad ticket, knowing the same to be forged or counterfeited, with intent to injure or defraud, or of having offered any such forged or counterfeited railroad ticket for sale, exchange or delivery, for any consideration, with the like knowledge and intent, or of having received any such forged or counterfeited railroad ticket upon a sale, exchange or delivery, for any consideration, with the like knowledge and intent, shall be adjudged guilty of forgery in the third degree, and shall be punished in like manner as is prescribed by law in cases of conviction of forgery in the third degree.

Id.; penalty.

§ 5. Every person who shall have in his possession any such forged or counterfeited railroad ticket as mentioned or referred to in the next preceding section, knowing the same to be forged, counterfeited or falsely altered, with intention to injure or defraud by uttering the same as true or false, or by causing the same to be uttered, or by the use of the same to procure a passage in the cars of the railroad company by which such ticket purports to have been issued, shall be subject to the punishment provided by law for forgery in the fourth degree.

CHAP. 346, LAWS OF 1848.

AN ACT to dispose of certain vacant and unoccupied lands belonging to the Onondaga Salt Springs reservation, and for other purposes.

Provisions respecting railroad companies.

* * * * *

§ 7. Whenever it shall be necessary for any railroad company to occupy any of the salt lands belonging to this State, for the use of their road, the same shall be appraised in the manner provided for in the second section of this act, and when they shall pay into the treasury of this State the appraised value, they shall become possessed of the same, to the same extent as by their charter they are authorized to become possessed of lands belonging to individuals.

* * * * *

Article VIII, section 1 of the Constitution of the State of New York.

Corporations may be formed under general laws, but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the Legislature, the objects of the corporation cannot be attained under general laws. All general laws and special acts passed pursuant to this section may be altered from time to time or repealed.

THE CODE OF CRIMINAL PROCEDURE OF THE STATE OF NEW YORK.

SECTIONS APPLICABLE TO RAILROAD COMPANIES.

Of crime committed in the State on board of any railway train, etc.

§ 187. When a crime is committed in this State, in or on board of any railway engine, train or car, making a passage or trip on or over any railway in this State, or in respect to any portion of the lading or freightage of any such railway train or engine car, the jurisdiction is in any county through which, or any part of which, the railway train or car passes, or has passed, in the course of the same passage or trip, or in any county where such passage or trip terminates, or would terminate if completed.

Plea of guilty, how put in.

§ 335. A plea of guilty can only be put in by the defendant himself in open court, except upon an indictment against a corporation, in which case it may be put in by counsel.

Summons upon an information or presentment against a corporation, by whom issued, and when returnable.

§ 675. Upon an information against a corporation, the magistrate must issue a summons, signed by him, with his name of office, requiring the corporation to appear before him, at a specified time and place, to answer the charge; the time to be not less than ten days after the issuing of the summons.

§ R. S. 1044, §§ 56, 57, 58.

Form of the summons.

§ 676. The summons must be in substantially the following form:

"County of *Albany*, [or as the case may be.]

"In the name of the people of the State of New York:

"To the [naming the corporation.]

"You are hereby summoned to appear before me, at [naming the place,] on [specifying the day and hour,] to answer a charge made against you, upon the information of *A. B.*, for [designating the offense, generally.]

"Dated at the city, [or 'town,'] of , the day of , 18 .

"G. H., *Justice of the peace.*"

[Or as the case may be.]

When and how served.

§ 677. The summons must be served at least five days before the day of appearance fixed therein, by delivering a copy thereof and showing the original to the president, or other head of the corporation, or to the secretary, cashier or managing agent thereof.

Id.

Examination of the charge.

§ 678. At the time appointed in the summons, the magistrate must proceed to investigate the charge, in the same manner as in the case of a natural person brought before him, so far as those proceedings are applicable.

Id.

Certificate of the magistrate, and return thereof with the depositions.

§ 679. After hearing the proofs, the magistrate must certify upon the depositions, either that there is or is not sufficient cause to believe the corporation guilty of the offense charged, and must return the depositions and certificate, in the manner prescribed in section 221.

Id.

Grand jury may proceed as in the case of a natural person.

§ 680. If the magistrate return a certificate that there is sufficient cause to believe the corporation guilty of the offense charged, the grand jury may proceed thereon as in the case of a natural person held to answer.

Id.

Appearance, and plea to indictment, and proceedings thereon.

§ 681. If an indictment be found against a corporation, it may appear by counsel, to answer the same. If it do not thus appear, a plea of not guilty must be entered, and the same proceedings had thereon as in other cases.

Id.

Fine, on conviction, how collected.

§ 682. When a fine is imposed upon a corporation, on conviction, it may be collected by virtue of the order imposing it, by the sheriff of the county, out of their real and personal property, in the same manner as upon an execution in a civil action.

Id.

THE PENAL CODE OF THE STATE OF NEW YORK.

(Chapter 676 of the Laws of 1881.)

THAT PORTION THEREOF APPLICABLE AND RELATING TO RAILROAD CORPORATIONS.

Use of force or violence declared not unlawful in certain cases, etc.

Subdivision 5, section 223.

5. When committed by a carrier of passengers, or the authorized agents or servants of such carrier, or by any person assisting them, at their request, in expelling from a carriage, railway car, vessel or other vehicle, a passenger who refuses to obey a lawful and reasonable regulation prescribed for the conduct of passengers, if such vehicle has first been stopped and the force or violence used is not more than sufficient to expel the offending passenger, with a reasonable regard to his personal safety.

* * * * *

Advising or inducing employees not to wear uniform a misdemeanor.

§ 425. A person who,

1. Advises or induces any one, being an officer, agent or employee of a railway company, to leave the service of such company, because it requires a uniform to be worn by such officer, agent or employee, or to refuse to wear such uniform, or any part thereof; or,

2. Uses any inducement with a person employed by a railway company to go into the service or employment of any other railway company, because a uniform is required to be worn; or,

3. Wears the uniform designated by a railway company without authority;
Is guilty of a misdemeanor.

2 R. S. 534, § 40; 2 R. S. 580, § 143; Laws of 1867, chap. 483, § 1.

Arson in second degree.

§ 487. A person who,

* * * * *

4. Willfully burns, or sets on fire, in the night-time, a car, vessel or other vehicle, or a structure or building, ordinarily occupied at night by a human being, although no person is within it at the time.

* * * * *

Arson in third degree.

§ 488. A person who willfully burns, or sets on fire, either,

1. A vessel, car or other vehicle, or a building, structure or other erection, which is at the time insured against loss or damage by fire, with intent to prejudice the insurer thereof; or,

2. A vessel, car or other vehicle, or a building, structure or other erection, under circumstances not amounting to arson in the first or second degree.

Burglary in third degree.

§ 498. A person who either,

1. With intent to commit a crime therein, breaks and enters a building, or a room, or any part of a building; or,

2. Being in any building, commits a crime therein and breaks out of the same ;
Is guilty of burglary in the third degree.

3 R. S. 941, §§ 18, 19.

Unlawfully entering building.

§ 505. A person who, under circumstances or in a manner not amounting to a burglary, enters a building, or any part thereof, with intent to commit a felony or a larceny, or any malicious mischief, is guilty of a misdemeanor.

"Building," defined.

§ 504. The term "building," as used in this chapter, includes a railway car, vessel, booth, tent, shop or other erection or inclosure.

Riding on freight or wood trains; getting on car or train while in motion; obstructing, etc., horse or street railroad cars; punishment.

§ 426. A person who,

1. Rides on any engine or any freight or wood car of any railway company, without authority or permission of the proper officers of the company or of the person in charge of the car or engine ; or,

2. Who gets on any car or train while in motion, for the purpose of obtaining transportation thereon as a passenger ; or,

3. Who willfully obstructs, hinders or delays the passage of any car lawfully running upon any horse or street railway ;

Is guilty of a misdemeanor.

Laws 1871, chap. 261 ; Laws 1879, chap. 474 ; Laws 1880, chap. 370

Endangering life by maliciously placing explosive near building, car, etc.

§ 645. A person who places in, upon, under, against or near to, any building, car, vessel or structure, gunpowder or any other explosive substance, with intent to destroy, throw down or injure the whole or any part thereof, under such circumstances, that, if the intent were accomplished, human life or safety would be endangered thereby, although no damage is done, is guilty of a felony.

See §§ 201, 389, 636, *ante*.

Emigrants ; sales and exchanges of passenger tickets.

§ 626. A person who,

1. Sells, or causes to be sold, a passage ticket, or order for such ticket, on any railway, vehicle or vessel, to any emigrant passenger at a higher rate than one and a quarter cents per mile ; or,

2. Takes payment for any such ticket or order for a ticket under a false representation as to the class of the ticket, whether emigrant or first-class ; or,

3. Directly or indirectly, by means of false representations, purchases or receives from an emigrant passenger any such ticket ; or,

4. Procures or solicits any such passenger having such a ticket to exchange the same for another passenger ticket, or to sell the same and purchase some other passenger ticket ; or,

5. Solicits or books any passenger arriving at the port of New York from a foreign country before such passenger has left the vessel on which he has arrived, or enters or goes on board any vessel arriving at the port of New York from a foreign country, having emigrant passengers on board, for the purpose of soliciting or booking such passengers ; and a person or agent of a corporation employing any person for the purpose of booking such passengers before leaving the ship ;
Is guilty of a misdemeanor.

1 R. S. 1087, §§ 73, 79, 81, Laws of 1853, chap. 218, §§ 7, 8, 9 ; Laws of 1855, chap. 474, §§ 1, 2, 4

"Company" defined.

§ 627. The term "company," as used in this chapter, includes all corporations,

whether created under the laws of this State or of the United States, or those of any other State or nation.

Laws of 1860, chap. 103, § 13.

Forging passage tickets.

§ 516. A person who, with intent to defraud, forges, counterfeits, or falsely alters any ticket, cheque or other paper or writing, entitling or purporting to entitle the holder or proprietor thereof to a passage upon any railway or in any vessel or other public conveyance; and a person who, with like intent, sells, exchanges or delivers, or keeps or offers for sale, exchange or delivery, or receives upon any purchase, exchange or delivery, any such ticket, knowing the same to have been forged, counterfeited or falsely altered, is guilty of forgery in the third degree.

3 R. S. 954, §§ 93, 94; Laws of 1860, p. 177, chap. 103.

Injury to railroad track, etc., how punished.

§ 635. A person who,

1. Displaces, removes, injures or destroys a rail, sleeper, switch, bridge, viaduct, culvert, embankment or structure, or any part thereof, attached or appertaining to or connected with a railway, whether operated by steam or by horses; or,

2. Places any obstruction upon the track of such a railway; or,

3. Willfully discharges a loaded fire-arm, or projects or throws a stone or any other missile at a railway train, or at a locomotive, car or vehicle standing or moving upon a railway;

Is punishable as follows:

1. If thereby the safety of any person is endangered, by imprisonment for not more than ten years.

2. In every other case, by imprisonment for not more than three years, or by a fine of not more than \$250, or both.

3 R. S. 966, § 26; Laws of 1877, chap. 261, § 1.

Altering, etc., signal or light for railway engine or train.

§ 638. A person who, with intent to bring a vessel, railway engine, or railway train into danger, either,

1. Unlawfully or wrongfully shows, masks, extinguishes, alters, or removes a light or other signal; or,

2. Exhibits any false light or signal;

Is punishable by imprisonment for not more than ten years.

Frauds in subscriptions for stock of corporations.

§ 590. A person who signs the name of a fictitious person to any subscription for, or agreement to take, stock in any corporation existing or proposed; and a person who signs to any subscription or agreement the name of any person knowing that such person does not intend in good faith to comply with the terms thereof, or under any understanding or agreement that the terms of such subscription or agreement are not to be complied with or enforced, is guilty of a misdemeanor.

§ 615. Repealed; Laws, 1882.

Sale by authorized agents restricted.

§ 616. No person, except as allowed in section 622, shall ask, take or receive any money or valuable thing as a consideration for any passage or conveyance upon any vessel or railway train, or for the procurement of any ticket or instrument, giving or purporting to give a right, either absolutely or upon a condition or contingency, to a passage or conveyance upon a vessel or railway train, or a berth or state-room on a vessel, unless he is an authorized agent within the provisions of the last section; nor shall any person, as such agent, sell or offer to sell any such ticket, instrument, berth or state-room, or ask, take or receive any

consideration for any such passage, conveyance, berth or state-room, excepting at the office designated in his appointment, nor until he has been authorized to act as such agent according to the provisions of the last section, nor for a sum exceeding the price charged at the time of such sale by the company, owners or consignees of the vessel or railway mentioned in the ticket. But a person who shall have purchased a ticket in good faith for his own passage, and shall have been prevented from using the same, may sell the ticket at any price not greater than the regular rate established therefor to another person in good faith for his own use.

Laws of 1860, chap. 103, § 2; Laws of 1857, chap. 470, § 1; Laws of 1868, chap. 820; Laws of 1876, chap. 201.

Unauthorized persons forbidden to sell certificates, receipts, etc., for the purpose of procuring tickets.

§ 617. No person other than an agent appointed, as provided in section 615, shall sell, or offer to sell, or in any way attempt to dispose of any order, certificate, receipt or other instrument, for the purpose, or under the pretense, of procuring any ticket or instrument mentioned in section 615, upon any company or line, vessel or railway train therein mentioned. And every such order sold or offered for sale by any such agent must be directed to the company, owners or consignees at their office.

Laws of 1860, chap. 103, § 3; Laws of 1857, chap. 470; Laws of 1868, chap. 820; Laws of 1876, chap. 201.

Punishment for violation of the preceding sections.

§ 618. A person guilty of a violation of any of the provisions of the preceding sections of this chapter is punishable by imprisonment in a State prison not exceeding two years, or by imprisonment in a county jail not less than six months.

Laws of 1860, chap. 103, § 4; Laws of 1857, chap. 470, § 1; Laws of 1868, chap. 820; Laws of 1876, chap. 201.

Conspiring to sell passage tickets in violation of law.

§ 619. All persons who conspire together to sell, or attempt to sell, to any person, any passage ticket, or other instrument mentioned in sections 615 and 616, in violation of those sections, and all persons, who, by means of any such conspiracy, obtain, or attempt to obtain, any money or other property, under the pretense of procuring or securing any passage or right of passage in violation of this chapter, are punishable by imprisonment in a State prison not exceeding five years.

Laws of 1860, chap. 103, § 5; Laws of 1857, chap. 470; Laws of 1868, chap. 820; Laws of 1870, chap. 103, § 5; Laws of 1870, chap. 423.

Conspirators may be indicted, notwithstanding object of conspiracy has not been accomplished.

§ 620. Persons guilty of violating the last section may be indicted and convicted for a conspiracy, though the object of such conspiracy has not been executed.

Laws of 1860, chap. 103, § 6; Laws of 1870, chap. 423, § 6; see § 171, *ante*.

Offices kept for unlawful sale of passage tickets, declared disorderly houses.

§ 621. All offices kept for the purpose of selling passage tickets in violation of any of the provisions of this chapter, and all offices where any such sale is made, are deemed disorderly houses; and all persons keeping any such office, and all persons associating together for the purpose of violating any of the provisions of this chapter, are punishable by imprisonment in a county jail, for a period not exceeding six months, and not less than three months.

Laws of 1860, chap. 103, § 7; Laws of 1870, chap. 423.

Station masters, conductors, etc., allowed to sell tickets.

§ 623. The provisions of this chapter do not prevent the station master or other ticket agent upon any railway, from selling in his office at any station on such

railway, any passage tickets upon such railway; nor do they prevent any conductor upon a railway from selling such tickets upon the trains of such railway.

Liability of persons in charge of steam engines.

§ 199. An engineer or other person having charge of a steam boiler, steam engine, or other apparatus for generating or applying steam employed in a boat or railway, or in a manufactory, or in any mechanical works, who willfully, or from ignorance or gross neglect, creates, or allows to be created, such an undue quantity of steam as to burst the boiler, engine or apparatus, or to cause any other accident, whereby the death of a human being is produced, is guilty of manslaughter in the second degree.

3 R. S. 934, § 31; Id. 973, § 81; 2 R. S. (Edm.) 717, § 25; 1 Whart. Cr. Law, § 383; see, also, §§ 380, 361, 332, 434, *post*.

Mismanagement of steam boilers.

§ 362. An engineer or other person having charge of a steam boiler, steam engine or other apparatus for generating or employing steam employed in a railway, manufactory, or other mechanical works, who, willfully or from ignorance or gross neglect, creates or allows to be created such an undue quantity of steam as to burst the boiler, engine or apparatus, or cause any other accident whereby human life is endangered, is guilty of a misdemeanor.

3 R. S. 973, § 81; see § 198, *ante*.

Employment of engineer who cannot read.

§ 418. A person who, as an officer of a corporation or otherwise, knowingly employs as an engineer or engine-driver to run locomotives or trains on any railway in this State a person who cannot read the time-tables and ordinary handwriting, is guilty of a misdemeanor.

2 R. S. 534, § 42; Laws of 1870, chap. 636, §§ 1, 2.

Person acting as engineer who cannot read.

§ 419. A person who, being unable to read the time-tables of the road and ordinary handwriting, acts as an engineer, or runs a locomotive or train on any of the railways in this State, is guilty of a misdemeanor.

2 R. S. 534, § 42; Laws of 1870, chap. 636, §§ 2, 3.

Intoxication of persons running trains and boats.

§ 420. A person who, being employed upon any railway as engineer, conductor, baggage-master, brakeman, switch-tender, fireman, bridge-tender, flagman, signalman, or having charge of stations, starting, regulating or running trains upon a railway, or being employed as captain, engineer or other officer of a vessel propelled by steam is intoxicated while engaged in the discharge of any of such duties, is guilty of a misdemeanor.

2 R. S. 941, § 39; Laws of 1857, chap. 623, § 31; Laws of 1871, chap. 560; Code Crim. Proc., § 56.

Failure to ring bell, etc.

§ 421. A person, acting as engineer driving a locomotive on any railway in this State, who fails to ring the bell or sound the whistle upon such locomotive, or cause the same to be rung or sounded at least eighty rods from any place where such railway crosses a traveled road or street on the same level (except in cities), or to continue the ringing such bell or sounding such whistle at intervals until such locomotive and the train to which the locomotive is attached shall have completely crossed such road or street, is guilty of a misdemeanor.

2 R. S. 542, § 61; Laws of 1860, chap. 140, § 61; Laws of 1864, chap. 232.

Placing passenger car in front of baggage car.

§ 422. A person, being an officer or employee of a railway company, who knowingly places, directs, or suffers a baggage, freight, lumber, oil or merchandise car

to be placed in rear of a car used for the conveyance of passengers in a railway train, is guilty of a misdemeanor.

2 R. S. 541, § 60; Laws of 1850, chap. 140, § 38.

Platforms.

§ 423. A railway company, and any officer or director having charge thereof, and any person managing a railway in this State, or which runs its cars into or through this State, who fails to have the platforms or ends of the passenger cars constructed in such a manner as will prevent passengers falling between the cars when in motion, is guilty of a misdemeanor.

2 R. S. 560, § 143; Laws of 1867, chap. 483.

Other violations of duty by officers, agents or servants of railroad companies.

§ 424. An engineer, conductor, brakeman, switch-tender or other officer, agent or servant of any railway company, who is guilty of any willful violation or omission of his duty as such officer, agent or servant, by which human life or safety is endangered, the punishment of which is not otherwise prescribed, is guilty of a misdemeanor.

Laws of 1867, chap. 483, § 1, in part; see § 199, *ante*

Officer of corporation selling, etc., forged or fraudulent scrip, etc.

§ 518. An officer, agent or other person employed by any company or corporation existing under the laws of this State, or of any other State or Territory of the United States, or of any foreign government, who willfully and with a design to defraud, sells, pledges or issues, or causes to be sold, pledged or issued, or signs or procures to be signed with intent to sell, pledge or issue, or to be sold, pledged or issued, a false, forged or fraudulent paper, writing or instrument, being or purporting to be a scrip, certificate or other evidence of the ownership or transfer of any share or shares of the capital stock of such company or corporation, or a bond or other evidence of debt of such company or corporation, or a certificate or other evidence of the ownership or of the transfer of any such bond or other evidence of debt, is guilty of forgery in the third degree, and upon conviction, in addition to the punishment prescribed in this title for that offense, may also be sentenced to pay a fine not exceeding \$3,000.

3 R. S. 946, §§ 49, 50; § 591, *post*.

Falsely indicating person as corporate officer.

§ 519. The false making or forging of an instrument or writing, purporting to have been issued by or in behalf of a corporation or association, State or government, and bearing the pretended signature of any person, therein falsely indicated as an agent or officer of such corporation, is forgery in the same degree, as if that person were in truth such officer or agent of the corporation or association, State or government.

3 R. S. 946, § 48; 2 R. S. (Edm.) 606, § 47; Laws of 1855, chap. 155.

Terms "forge" and "forging."

§ 520. The expressions "forge," "forged" and "forging," as used in this chapter, include false making, counterfeiting and the alteration, erasure, or obliteration of a genuine instrument, in whole or in part, the false making or counterfeiting of the signature of a party or witness, and the placing or connecting together with intent to defraud different parts of several genuine instruments

3 R. S. 946, § 44.

Fraudulent issue of stock, scrip, etc.

§ 591. An officer, agent or other person in the service of any joint-stock company, or corporation formed or existing under the laws of this State, or of the United States, or of any State or Territory thereof, or of any foreign government or country, who willfully and knowingly, with intent to defraud, either,

1. Sells, pledges or issues, or causes to be sold, pledged or issued, or signs or

executes, or causes to be signed or executed, with intent to sell, pledge or issue, or to cause to be sold, pledged or issued, any certificate or instrument purporting to be a certificate or evidence of the ownership of any share or shares of such company or corporation, or any bond or evidence of debt, or writing purporting to be a bond or evidence of debt of such company or corporation, without being first thereto duly authorized by such company or corporation, or contrary to the charter or laws under which such corporation or company exists, or in excess of the power of such company or corporation, or of the limit imposed by law or otherwise upon its power to create or issue stock or evidences of debt ; or,

2. Reissues, sells, pledges or disposes of, or causes to be reissued, sold, pledged or disposed of, any surrendered or canceled certificates, or other evidence of the transfer or ownership of any such share or shares ;

Is punishable by imprisonment for not less than three years nor more than seven years, or by a fine not exceeding \$3,000, or by both.

Laws of 1855, chap. 155, §§ 1, 2.

Frauds in procuring organization of corporation, or increase of capital.

§ 592. An officer, agent or clerk, of a corporation, or of persons proposing to organize a corporation, or to increase the capital stock of a corporation, who knowingly exhibits a false, forged or altered book, paper, voucher, security or other instrument of evidence to any public officer or board authorized by law to examine the organization of such corporation, or to investigate its affairs, or to allow an increase of its capital, with intent to deceive such officer or board in respect thereto, is punishable by imprisonment in a State prison not exceeding ten years and not less than three years.

See Laws of 1829, chap. 94, § 29.

Misconduct of directors of stock corporations.

§ 594. A director of a stock corporation, who concurs in any vote or act of the directors of such corporation, or any of them, by which it is intended,

1. To make a dividend, except from the surplus profits arising from the business of the corporation, and in the cases and manner allowed by law ; or,

2. To divide, withdraw, or in any manner pay to the stockholders, or any of them, any part of the capital stock of the corporation ; or to reduce such capital stock without the consent of the Legislature ; or,

3. To discount or receive any note or other evidence of debt in payment of an installment of capital stock actually called in, and required to be paid, or with intent to provide the means of making such payment ; or,

4. To receive or discount any note or other evidence of debt with intent to enable any stockholder to withdraw any part of the money paid in by him on his stock ; or,

5. To apply any portion of the funds of such corporation, except surplus profits, directly or indirectly, to the purchase of shares of its own stock ; or,

6. To receive any such shares in payment or satisfaction of a debt due to such corporation ; or,

7. To receive in exchange for the shares, notes, bonds, or other evidences of debt of such corporation, shares of the capital stock or notes, bonds or other evidences of debt issued by any other stock corporation ;

Is guilty of a misdemeanor.

2 R. S. 297, § 1; Laws of 1839, chap. 742, § 7.

Frauds in keeping accounts, etc.

§ 602. A director, officer or agent of any corporation or joint-stock association, who knowingly receives or possesses himself of any property of such corporation or association, otherwise than in payment of a just demand, and with intent to defraud, omits to make, or to cause or direct to be made, a full and true entry thereof, in the books or accounts of such corporation or association ; and a director, officer, agent or member of any corporation or joint-stock association, who, with intent to defraud, destroys, alters, mutilates or falsifies any of the books, papers, writings or securities belonging to such corporation or association, or makes or concurs in making any false entry, or omits or concurs in omitting to

make any material entry in any book of accounts, or other record or document kept by such corporation or association, is punishable by imprisonment in a State prison not exceeding ten years, and not less than three years, or by imprisonment in a county jail not exceeding one year, or by a fine not exceeding \$500, or by both such fine and imprisonment.

Laws of 1829, chap. 94, § 29; Laws of 1843, chap. 218, § 6.

Officer of corporation publishing false reports of its condition.

§ 608. A director, officer or agent of any corporation or joint-stock association, who knowingly concurs in making or publishing any written report, exhibit or statement of its affairs or pecuniary condition, containing any material statement which is false, other than such as are elsewhere, by this Code, specially made punishable, is guilty of a misdemeanor.

Laws of 1874, chap. 440, §§ 1, 2.

(Section 607 repealed by chapter 377, Laws of 1884.)

(Section 608 repealed by chapter 377, Laws of 1884.)

Directors of corporation presumed to have knowledge of its affairs.

§ 609. A director of a corporation or joint-stock association must be deemed to have such a knowledge of the affairs of the corporation or association as to enable him to determine whether any act, proceeding or omission of its directors, is a violation of this chapter.

2 R. S. 299, § 14.

Director present at meeting, when presumed to have assented to proceedings.

§ 610. A director of a corporation, or joint-stock association, who is present at a meeting of the directors, at which any act, proceeding or omission of such directors in violation of this chapter occurs, must be deemed to have concurred therein, unless he at the time causes, or in writing requires, his dissent therefrom to be entered in the minutes of the directors.

2 R. S. 298, §§ 12, 13.

Director absent from meeting, when presumed to have assented to proceedings.

§ 611. A director of a corporation, or joint-stock association, although not present at a meeting of the directors, at which any act, proceeding or omission of such directors, in violation of this chapter, occurs, must be deemed to have concurred therein, if the facts constituting such violation appear on the record or minutes of the proceedings of the board of directors, and he remains a director of the same company for six months thereafter, without causing, or in writing requiring, his dissent from such illegality to be entered in the minutes of the directory.

Id.

Failure of director to disclose service of notice of application for injunction.

§ 612. A director, trustee or other officer of a joint-stock association or corporation, upon whom a notice of application for an injunction affecting the property or business of such joint-stock association or corporation is served, who omits to disclose to the other directors, officers, or managers thereof, the fact of such service, and the time and place of such application, is guilty of a misdemeanor.

Laws of 1870, chap. 151, § 1.

Foreign corporations subject to provisions of this chapter.

§ 613. It is no defense to a prosecution for violation of the provisions of this chapter, that the corporation was one created by the laws of another State, government or country, if it carried on business, or kept an office therefor, within this State.

"Director" defined.

§ 614. The term "director," as used in this chapter, embraces any of the persons having by law the direction or management of the affairs of a corporation, by whatever name such persons are described in its charter, or are known in law.

2 R. S. 804, § 56.

Carrying animal in a cruel manner, a misdemeanor.

§ 659. A person who carries or causes to be carried in or upon any vessel or vehicle or otherwise, any animal in a cruel or inhuman manner, or so as to produce torture, is guilty of a misdemeanor.

3 R. S. 974, § 38; Laws of 1880, chap. 209; Laws of 1887 chap. 375, § 5; § 663, *post*.

Transporting animals for more than twenty-four consecutive hours a misdemeanor.

§ 663. A railway corporation, or an owner, agent, consignee, or person in charge of any horse, sheep, cattle, or swine, in the course of, or for transportation, who confines, or causes or suffers the same to be confined, in cars for a longer period than twenty-four consecutive hours, without unloading for rest, water and feeding, during ten consecutive hours, unless prevented by storm or inevitable accident, is guilty of a misdemeanor. In estimating such confinement, the time during which the animals have been confined without rest, on connecting roads from which they are received, must be computed. If the owner, agent, consignee, or other person in charge of any such animals refuses or neglects upon demand to pay for the care or feed of the animals while so unloaded or rested, the railway company, or other carriers thereof, may charge the expense thereof to the owner or consignee and shall have a lien thereon for such expense.

3 R. S. 974, § 38; Laws of 1886, chap. 560, § 1.

Definitions.

§ 669. 1. The word "animal," as used in this title, does not include the human race but includes every other living creature;

2. The word "torture" or "cruelty" includes every act, omission, or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted;

3. The words "impure and unwholesome milk" include all milk obtained from animals in a diseased or unhealthy condition, or who are fed on distillery waste, usually called "swill," or upon any substance in a state of putrefaction or fermentation.

3 R. S. 976, § 51; Laws of 1874, chap. 12, § 8; Laws of 1882, chap. 467, § 4.

Innkeepers and carriers refusing to receive guests and passengers.

§ 381. A person who, either on his own account or as agent or officer of a corporation, carries on business as innkeeper, or as common carrier of passengers, and refuses, without just cause or excuse, to receive and entertain any guest, or to receive and carry any passenger, is guilty of a misdemeanor.

See § 383, *post*.

No exclusion because of race, color, etc.

§ 883. No citizen of this State can, by reason of race, color, or previous condition of servitude, be excluded from the equal enjoyment of any accommodation, facility or privilege furnished by innkeepers or common carriers, or by owners, managers, or lessees of theaters or other places of amusement by teachers and officers of common schools and public institutions of learning, or by cemetery associations. The violation of this section is a misdemeanor, punishable by a fine of not less than \$50, nor more than \$500.

1 R. S. 377, §§ 22-24; see § 381, *ante*.

Issuing fictitious bills of lading, etc.

§ 623. A person being the master, owner or agent of any vessel, or officer

or agent of any railway, express or transportation company, or otherwise being or representing any carrier who delivers any bill of lading, receipt or other voucher, by which it appears that merchandise of any kind has been shipped on board a vessel, or delivered to a railway, express or transportation company, or other carrier, unless the same has been so shipped or delivered, and is at the time actually under the control of such carrier, or the master, owner, or agent of such vessel, or of some officer or agent of such company, to be forwarded as expressed in such bill of lading, receipt or voucher, is punishable by imprisonment not exceeding one year, or by a fine not exceeding \$1,000, or by both.

2 R. S. 229; Laws of 1853, chap. 325, § 5; Laws of 1859, chap. 353; Laws of 1866, chap. 440.

Erroneous bills of lading or receipts issued in good faith excepted.

§ 630. No person can be convicted of an offense under the last two sections for the reason that the contents of any barrel, box, case, cask or other vessel or package mentioned in the bill of lading, receipt or other voucher did not correspond with the description given in such instrument of the merchandise received, if such description corresponds substantially with the marks, labels or brands upon the outside of such vessel or package, unless it appears that the defendant knew that such marks, labels or brands were untrue.

Duplicate receipts must be marked "duplicate."

§ 631. A person mentioned in sections 628 and 629, who issues any second or duplicate receipt or voucher of a kind specified in those sections at a time while a former receipt or voucher for the merchandise specified in such second receipt is outstanding and uncanceled, without writing across the face of the same the word "duplicate," in a plain and legible manner, is punishable by imprisonment not exceeding one year, or by a fine not exceeding \$1,000, or by both.

Selling, hypothecating or pledging property received for transportation or storage.

§ 632. A person mentioned in sections 628 and 629, who sells or pledges any merchandise for which a bill of lading, receipt or voucher has been issued by him without the consent in writing thereto of the person holding such bill, receipt or voucher, is punishable by imprisonment not exceeding one year, or by a fine not exceeding \$1,000, or by both.

2 R. S. 229, § 4; Laws of 1853, chap. 325; Laws of 1859, chap. 353; Laws of 1866, chap. 440.

Property demanded by process of law.

§ 634. The last two sections (§§ 632 and 633) do not apply to any case where property is demanded by virtue of legal process.

2 R. S. 229, § 8.

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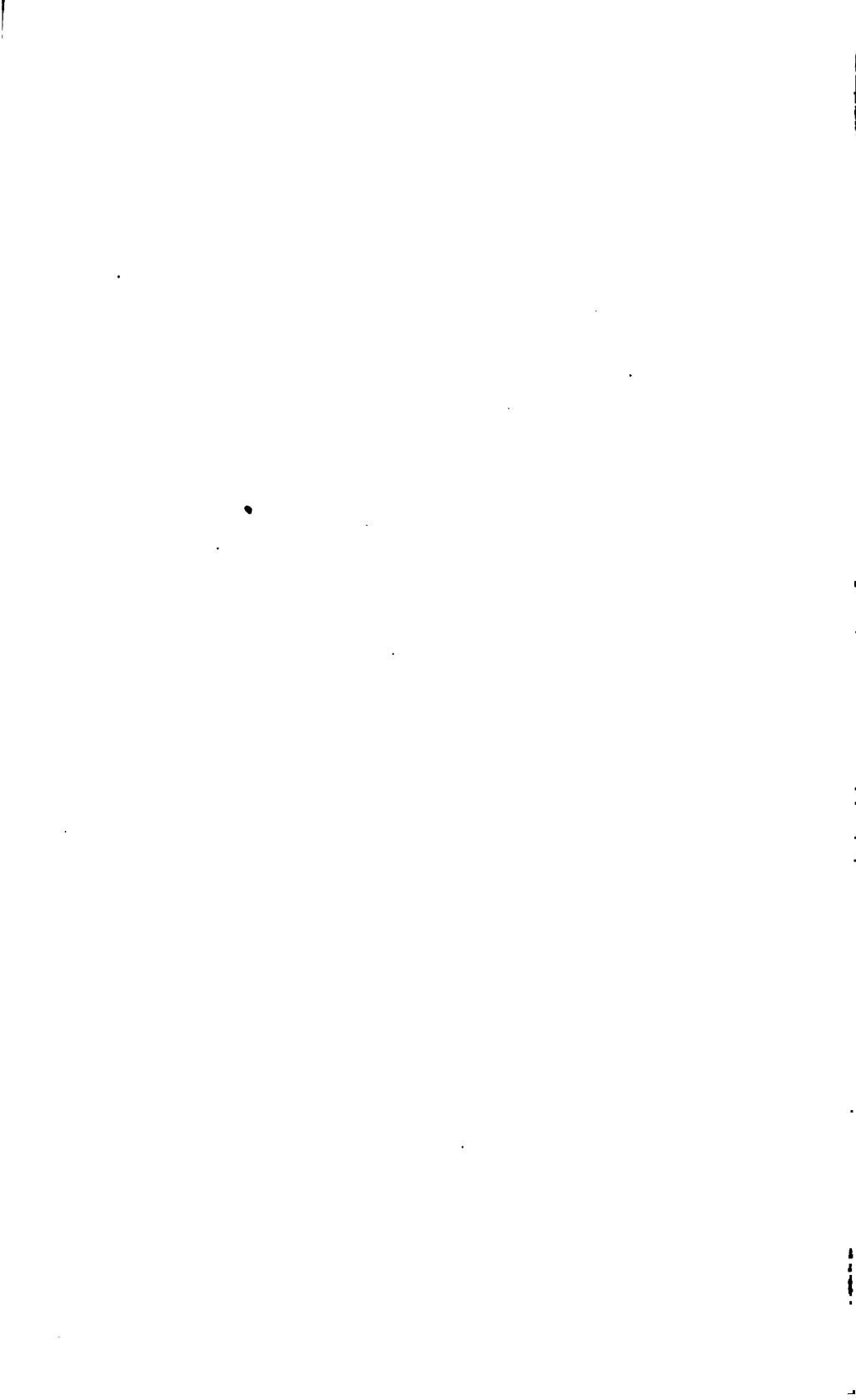
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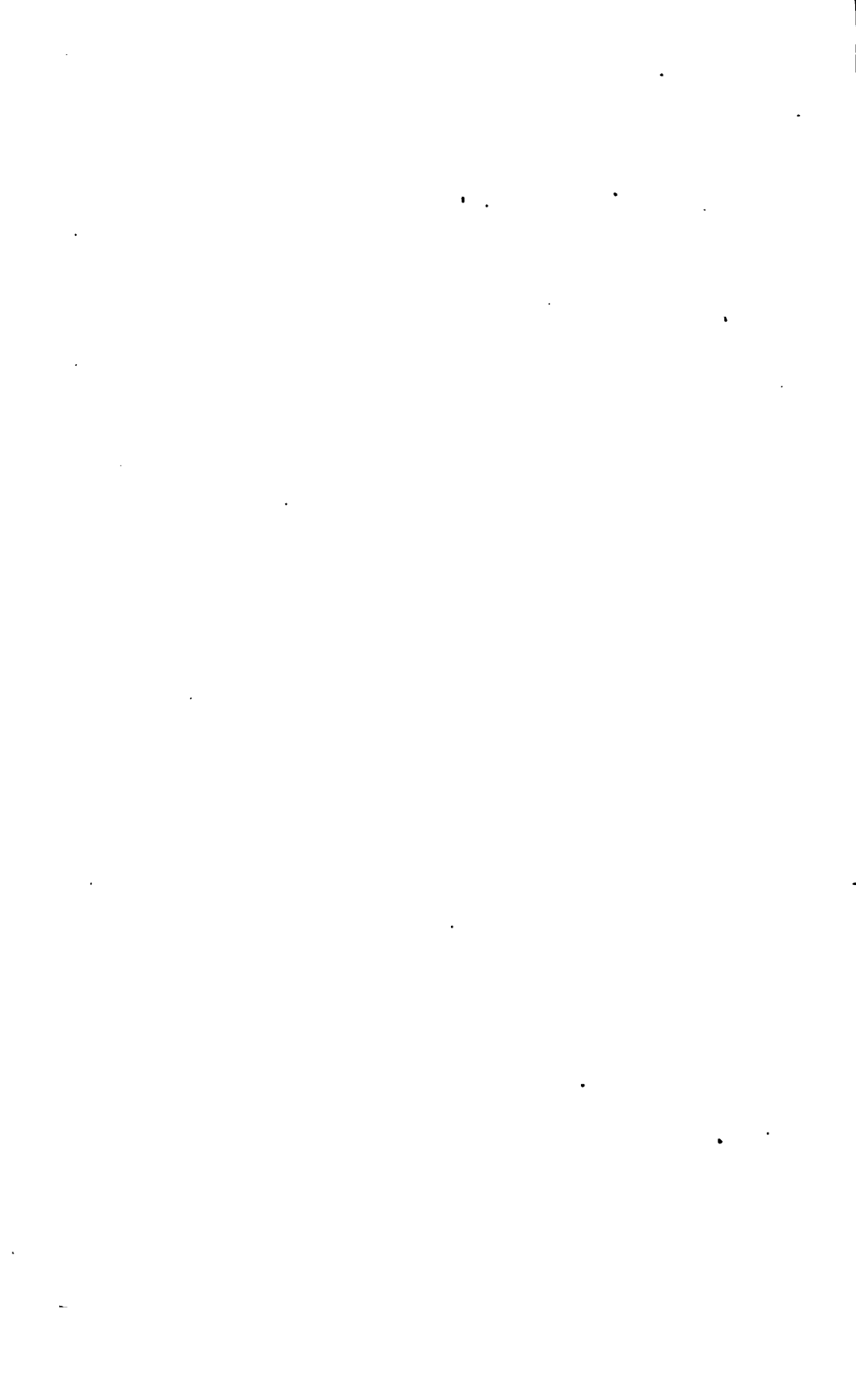
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